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AMERICAN DEBATE

A HISTORY OF POLITICAL AND ECONOMIC CONTROVERSY IN THE UNITED STATES, WITH CRITICAL DIGESTS OF LEADING DEBATES

BY

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PART II

THE LAND AND SLAVERY QUESTIONS

1607-1860

G. P. PUTNAM'S SONS
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PREFACE

THE controversies treated in Volume I., dealing with purely political or constitutional questions arising in sequence of time in our national development, invited and even compelled presentation in chronological order. The controversies in the present volume, being economic, were largely synchronous, both with each other and with the constitutional debates. So, while each controversy will be presented in chronological order, some other element than that of priority must be taken to decide precedence of subjects. Accordingly the author has gone to economic science to find in its fundamental principles a logical order of discussion.

Political economy is the science which treats of the production and distribution of wealth. Production is application of energy to satisfy human desire. The energy outside of man, *i. e.*, natural energy, is called *land*. The energy, manual and mental, within man, *i. e.*, human energy, is called *labor*. Labor applied to land produces *wealth*. That part of wealth used to produce more wealth by economizing natural and human energy is called *capital*. The process of distribution is complementary to that of production in every part. To land is distributed, *i. e.*, assigned as its share of production, *rent*; to labor, *wages*; to capital,

*profits.*¹ Rent, wages, and profits, either singly or in combination form *income* or *revenue*.

Hence the first subject that will be discussed in this volume is the Land question, and the second the Labor question, which will be considered in its purest form, disassociated from land or capital, as the right of men to the products of their toil, presented in American history down to the Civil War as the Slavery question. The problems of Industrial Slavery, the interference with the rights of labor by land monopoly and capitalistic privilege, which arose to a crucial issue after the Rebellion, are not discussed in this volume, which closes with the beginning of that great War of Emancipation.

These primary subjects are fully discussed in the present volume. Logically following them would be the subject of National Capital, the appropriation by the government of a portion of the revenue arising from the production of the country, and its expenditure for the promotion of public order and for further economic production. The controversy over Internal Improvements, as well as those over Railroads (in respect to land grants a land question) and the Isthmian Canal (Clayton-Bulwer Treaty), will be reserved for a full discussion down to the present time.

The great problem of national capital, as it is the central problem of all government, is Taxation, the acquisition of national revenue. Owing to the exigency of space, as well as because it should be treated in its entirety, from the foundation of the government to the present time, this subject will not be presented in the present work.

¹ The term used for this return by many "economists of the chair" is *interest*, but, in the author's opinion, this should be reserved for the more specific sense of "money paid for the use of money."

Both logical, historical, and rhetorical considerations reserve the Money Question to a separate place in economic discussion.

Money is a standard of value and a medium of exchange. In both functions it greatly facilitates production and distribution of wealth, but it is an essential factor in neither process, as will be realized by the reader if he will imagine a people conducting all their exchanges by barter, using an ideal unit, perhaps, as a standard of value, and employing a clearing-house system of book-keeping to keep accounts. No government currency, either coin or notes, would be required, and yet the community would seem to possess all the economic machinery needed for the highest industrial development.

But it is an historical fact that money forms the basis for the business of all civilized countries, and that economic production and exchange are largely conducted on credit, balances and deferred payments (debts) being settled in money. Accordingly the problems of Credit, Banking and Currency become of supreme practical importance, however more fundamental in theory the questions of land, labor, and capital may be. Through a change in any of these three elements of finance, property is redistributed among individuals, just as in the case of any change, upward or downward in taxation. Either the debtor or creditor is mulcted at the expense of the other. Thus the power to monetize, or to control credit, like the power to tax, involves the power to destroy.^x

However, for the reasons that prevail in the case of Railroads and Taxation, the subject of Finance is not presented here, but reserved for more complete treatment.

^x See *McCulloch vs. Maryland* in Index.

Naturally with each of these economic problems, especially slavery, constitutional, or strictly political questions were involved, and these are discussed with a due sense of their importance, though at the same time with a realization of their subordination to the economic aspect of the subjects. Early American statesmen, because of their almost exclusive training in law, seemed to regard establishing the constitutionality of a proposition as *ex proprio vigore* settling any economic problems connected therewith. It will be amusing to future generations to see how optimistically statesmen of even the present age have applied political poultices to industrial sores, not realizing that the cure for these is the removal of all political bandages, including the original causative legal strictures and the intended palliatives. Thus, instead of *abolishing* taxation on production and consumption, which, both in this positive aspect, and in the negative corollary of exemption of privilege from taxation, has created the Trusts, they have sought to abate these industrial evils by using the constitutional right of Federal control over interstate commerce to *regulate* them, with the result that, so long as the regulation continues, these monopolies possess as it were a vested right in their governmental privileges which tend continually to create the abuses requiring to be abated.

The lesson of this volume is that a thorough course in economic science even more than a course in political science, and certainly as much as one in law, is essential to the student of public affairs, particularly the statesman. That any legislator, national or State, should be ignorant of such subjects as Ricardo's law of rent, the canons and incidence of taxation, the quantitative theory of money, etc., and yet dare to vote on bills framed

in all probability in opposition to sound principles of revenue and finance, is a form of criminality so general that oftentimes "serving a term at the Capitol" ought morally, if not legally to be followed by the lawmaker "doing his bit" at the Penitentiary—granted that the character of the latter institution really justifies its name.

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Land

American Debate

CHAPTER I

ORIGINAL LAND TITLES

[*Colonial Charters*¹]

European Principle of Land Sovereignty Implanted in America at its Settlement—The Virginia Companies—Colonial History of Virginia—Negro Slavery—Controversy between Landed Aristocracy and Freeholders—Bacon's Rebellion—Controversy over Clerical Stipends—Colonial History of Massachusetts—Charters—Controversy over New Hampshire Land Grants (Vermont)—Land-System of Maine—Colonial History of Connecticut—Controversy over Charter with Andros—Roger Williams Founds Providence—Sketch of Williams—Colonial History of Rhode Island—The New England Confederation—Colonial History of Maryland—Dutch Settlement of New York—The Patroon Land-System—Anti-Rent Agitation Ending in 1846—English Conquest—The Dongan Charter—The Leisler Rebellion—The Zenzer Libel Case—Colonial History of New Jersey—Sketch of William Penn—Colonial History of Pennsylvania—Boundary Dispute with Maryland—Indian Troubles—Colonial History of Delaware—Colonial History of the Carolinas—Constitution Drafted by John Locke—Proprietary Government Replaced by Royal—Charters—Colonial History of Georgia—Sketch of James Edward Oglethorpe—His Prohibition of Rum and Slavery.

IN order to understand the fundamental relation of the land question to all other subjects of controversy in America, those over civil and constitutional rights

¹ The presentation of the colonial forms of government also gives the chapter the character of an introduction to Volume I., treating as this does of constitutional law.

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no less than those over economic interests, it will be necessary to give an account of the settlement of the colonies under royal and proprietary charters which established more or less arbitrary and undemocratic conditions of land tenure, such as restriction of labor, monopoly of trade, and church establishment, that sowed in our soil seeds of evil whose rank growth was either eradicated in later years only by bitter and even bloody contention, or still remains as a menace to free society, requiring constant vigilance to prevent it choking out the fruits of liberty implanted at the same time.

The view that the individual man has a natural right to be free in mind and body was dawning upon the Englishmen who colonized America, and with it came the realization that free land was a necessary guaranty of this liberty of thought and action. However, just as they could not conceive of religious freedom except as *extended* to them,¹ so they regarded the right to the use of the earth as a privilege accorded by one of the sovereigns who claimed dominion over the land in question by the factitious act of discovery.²

Thus, because of the discovery in 1498 of the region by John Cabot sailing under the English flag, James I. in 1606 granted to Sir Thomas Gates and his associates, under the name of the Virginia Company, the right to settle and develop the American coast from Passamaquoddy Bay (now in Maine) to Cape Fear (now in North Carolina). The Company was shortly thereafter divided into the London Company for

* See Volume I., page 137.

² For a philosophical demonstration of the equal right of all men to the use of the earth, see *Social Statics*, by Herbert Spencer, chapter ix., edition of 1850.

South Virginia, and the Western (Plymouth, Eng.) Company for North Virginia, the region from the mouth of the Potomac to the Hudson being open to common occupation on condition that one hundred miles intervene between settlements made by each. It was held that this discovery gave right not only to the seaboard, but to the hinterland of the entire continent extending in the latitude of the coast clear to the Pacific ocean, this claim being expressed in the charters. With this sovereignty was implicated the right to transfer the dominions, settled or unsettled, to foreign powers.¹

The two companies were authorized to colonize any subjects of England, and to these and their descendants were secured all civil rights enjoyed in the realm of England or other dominions of the Crown. The patentees were to hold the lands "as of the manor of East Greenwich, in the county of Kent," England, "in free and common *socage*" (civil tenure by fixed and determinate service), and not in *capite*; (military tenure by indeterminate service); and they were authorized to grant the same to the settlers in such manner as the council of each colony (a local body appointed and removable by the Crown, and under the direction of a council in England) should direct.

Power was given to each local council to expel all intruders, and to lay a limited duty upon all persons trafficking

¹ This title was that which troubled Jefferson in the matter of the Louisiana Purchase. He had stated in the Declaration of Independence that "governments derive their just powers from the consent of the governed." Opposed to this was the need of acquiring Louisiana for national defense. The treaty could be made only by recognizing the European principle of sovereignty. However, he relied upon the early admission into the Union of the settled portions of the domain to "cure" the inconsistency. This point is applicable to our other annexations of territory, such as Porto Rico and the Philippines. Secession was justified by its advocates on the European theory of sovereignty.

with the colony, and colonists were prohibited from trade with foreign countries, even by way of England.¹

Settlement of Virginia. Virginia was settled at Jamestown on May 14, 1607, by the London Company. The settlers, known as the "generality," were considered members of the parent company, and entitled to share in the profits with the stockholders. Captain John Smith, who became the head in 1608, organized the colony as a military commune, apportioning agricultural and fishing operations to the settlers. These, owing largely to the hostile attitude of the Indians, who were restricted from their former use of the land taken by the English without compensation, came to naught.

In 1609 the Company was reorganized, and Captain Christopher Newport and Sir George Somers were added to the management. In 1610 the colony, which had decided to remove to Newfoundland and there engage in fishing, and, indeed, had just set sail thither, were reënforced by three ships from England bringing settlers and supplies under command of Thomas West, Baron Delaware. The original plan was continued. Agriculture was developed, and trade with the Indians encouraged, which led to more friendly relations with these former lords of the soil.

In 1616 the land was divided in severalty among the settlers in order to encourage the spirit of private enterprise and independence. That it so operated in the latter respect was indicated during the next year by a demand for greater self-government under terms of the charter. This was granted in 1619, when Sir

¹ These facts, and similar data following, are taken from "Pre-Revolutionary History" in *Commentaries on the Constitution*, by Joseph Story.

George Yeardly was sent out as governor, with instructions to organize a general assembly to legislate on local matters. This, the first example of a domestic parliament in America, says Associate-Judge Story in his *Commentaries on the Constitution*, "was never lost sight of, but was ever afterwards cherished throughout America as the dearest birthright of freedom."

With Yeardly, and in following ships came a total number of twelve hundred servants. In the same year negro slaves were bought from a Dutch slaver that touched at the colony. Twenty thousand pounds of tobacco were exported in 1619, and from this time onward the colony was self-supporting.

In 1621 the Council of the Company in England gave the assembly more specific powers, and added a local Governor's Council to the legislative body, the assembly being called the House of Burgesses. The Council and Burgesses were required to imitate, as near as possible, "the policy of the form of government, laws, customs, and manner of trial and other administration of justice, used in the realm of England."

In 1624 James I. dissolved the London Company, and assumed sole authority for the Crown over all the American plantations. During his reign, and throughout most of that of his successor, Charles I. (1625-1649), no colonial assembly was convened in Virginia, and the colony was arbitrarily ruled by the royal will through the royal agents. However, in 1641, in response to a firm demand for redress made by the colonists, Charles I. appointed Sir William Berkeley Governor with authorization to proclaim that in all concerns, ecclesiastical as well as civil, the colony should be governed by the laws of England, and to establish the government ordained by the English Council in 1621.

From 1641 onward, with some short intervals, the colony flourished under this semi-autonomy.

Berkeley's rule, however, became more and more autocratic, and the people seized upon his loyalty to the Stuarts to procure his downfall in 1652, and to proclaim their allegiance to the Commonwealth under Cromwell. A succession of Puritan governors greatly extended the legislative franchise. Upon the restoration of Charles II. Berkeley was restored to the governorship, and he proceeded to establish an aristocratic government by the aid of the owners of the great estates. Power in the Council and in the House of Burgesses was concentrated in the hands of this privileged class, and for sixteen years one legislature of this composition was retained by the Governor, lest a new one should not be so submissive to his will.

The spirit of Berkeley is illustrated in an answer he gave in 1671 to an inquiry from the British Board of Trade and Plantations in respect to religious and other instruction in the colony:

"I thank God there are no *free schools* nor *printing*; and I hope we shall not have these [for a] hundred years; for learning has brought disobedience, and heresy, and sects into the world, and printing has divulged them, and libels against the best government. God keep us from both!"

The great body of the people developed a bitter hostility toward this oligarchy, and demanded a freer land-grant system and better protection against the inroads of the Indians along the frontier where the small freeholders were largely located, owing to the monopolization of the eastern lands by great estates. To this end they called for a new assembly to be elected by all the freeholders. Thereupon the oligarchy outlawed

many of these people as dissenters, the Church of England having been early established (under control of the Bishop of London), the clergy provided for by glebes, titles, and other aids, and, for a number of years, non-conformists excluded from the colony. In 1676 a burdensome tax was laid on the people by the unrepresentative assembly.

In the same year the Indians again attacked the border farmers, and the Governor refused assistance to these harassed settlers, being willing, it was believed, that they should suffer while he and his adherents enjoyed a lucrative fur trade with the despoilers. Accordingly the settlers rose under Nathaniel Bacon, and, after defeating the Indians at Bloody Run, marched on the capital at Jamestown to demand official recognition as the army of defense. Meanwhile Governor Berkeley had outlawed Bacon and prepared to oppose him as a traitor. Civil war ensued, in which the Governor was defeated and Jamestown burned. But the death of Bacon, by malaria, in the midst of the conflict, disorganized his army, and the Governor was finally victorious, following up his triumph with wholesale execution of lives and confiscation of property. Censured by Charles II., Berkeley sailed to England, but died in 1677 before making his defense.

The arbitrary royal court seized upon the opportunity afforded by the death of Berkeley to increase its control over the colony. In 1680 all judicial power was taken from the assembly, and an appeal was allowed from the judgments of the general court to the king in council.

The accession of William and Mary brought better government to Virginia. The capital was removed in 1691 to Middle Plantation, which was rechristened

Williamsburg, and a man of liberal spirit was put by the Crown at the head of the clergy as a counterpoise to the arbitrary acts of the governors. This was James Blair, a Scotsman. He established at the new capital the college of William and Mary, whither professors were brought from Scotland, by this means and in other ways giving a great impetus to education. He also reformed the church by putting the clergy (who had grown lax in morals and autocratic in manners), under the financial and administrative control of the vestries, who fixed the salaries of the parish priests and enforced the performance of their duties. In 1699 the first law tolerating Protestant dissenters was passed by the assembly, following the statute to that effect of the first year of William and Mary.

Nevertheless the aristocracy of the tide-water region continued to rule the assembly down to 1763, when an investigation of the finances of the colony, forced by the up-country party (which also had advocates, such as Richard Henry Lee, in eastern Virginia), showed wide-spread corruption, and resulted in the downfall of the oligarchy. The new and democratic House of Burgesses set to work to reform the abuses. At the instigation of the dissenters, chiefly Presbyterians and Baptists, who were the leading denominations among the middle-class people, the house reduced the stipends of the established clergy.¹

Settlement of Massachusetts. The first colonists to settle "Northern Virginia" were the dissenting folk called "Pilgrims," who, with a charter from the London Company, set sail for "Southern Virginia," but were forced by storms to land at Plymouth on December 21,

¹ For an account of Patrick Henry's successful opposition to the contest made by the clergy against this reduction, see Volume I., p. 24.

1620. While still at sea in the *Mayflower*, on November 21, they drew up a compact, in which, after acknowledging themselves subjects of the Crown of England, they declared that they did "covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid."

Under this covenant the Pilgrims, after landing, organized the "Colony of New Plymouth," appointing a governor and other officers, and enacting laws.

The governor was chosen annually by the freemen, and had at first one assistant in his duties; afterwards other assistants were added, until the number was seven, forming the governor's "council." The supreme legislature, however, was the whole body of male adults who were church members.

The growth of the settlement causing such an assembly to be unwieldy, in 1639 a House of Representatives was established, chosen annually by those formerly qualified to legislate. The common law of England was adopted; modified by municipal regulations adapted to their peculiar circumstances or conforming better to their regard for the Mosaic institutions of the Bible, which book they regarded as an absolute authority.

Not till January, 1629, did the Pilgrims obtain a patent from the "Council for New England," established in 1620 at Plymouth, England, under charter of King James I. This Council made to the colonists a grant of territory, and ratified the form of government already adopted under the name of "New Plymouth." Under the patent the colonists assumed most plenary executive, legislative, and judicial powers. The com-

pany gave free land grants to groups of colonists making settlements, and these the colony apportioned freely to individuals, the colony preserving the title. This was the rule of all the New England colonies, until, the desirable lands having been taken up, rental value arose, and the present system of land purchase under deed was gradually adopted. The early system of settlement caused the "town" (the township as distinct from the village) to be the political unit of New England.

Trial by jury was confirmed by the charter. All processes were in the king's name. As in Virginia all lands were to descend according to the free tenure of lands in East Greenwich, Kent, England. All sons should inherit equally, except the eldest, who was to have a double portion. If there were no sons, all daughters should inherit equally. Among capital offenses were idolatry, blasphemy, treason, murder, witchcraft, bestiality, false witness, cursing or smiting a parent, rape, arson, man-stealing, and piracy. Maintenance of a public orthodox ministry and public schools was provided for.

In this government the Plymouth colonists were not disturbed until after the accession of Charles II. in 1660, when their authority was questioned. They clung to their government, however, until the accession of James II. in 1684, when an arbitrary royal government under Sir Edmund Andros, as governor-general, was established over all the northern colonies, which was called the "Dominion of New England." The old government was restored on the accession of William and Mary, and in 1691 New Plymouth colony was incorporated into Massachusetts Bay colony under a charter granted to the latter.

The Puritans who settled at Salem in 1628 and at Boston in 1630 did so under a grant of land and ample powers conferred in 1628 by the Council for New England, and confirmed by royal charter of Charles I. on March 4, 1629. The name of the colony was "Massachusetts Bay."

The lands were to be any territory (in America) not inhabited by any other Christian state or forming part of the grant to the Southern Virginia colony, and were to be held in *socage*, "as of the royal manor of East Greenwich," etc. "One fifth part of all ore of gold and silver" discovered was to go to the Crown. The name of the grantee was to be "The Governor and Company of the Massachusetts Bay in New England," and its powers were to be those usual to corporations. The government was to be administered by a governor, his deputy, and eighteen assistants, elected from time to time by the freemen of the company. Four general assemblies of the officers and freemen were ordained to be held annually, which were to pass laws for the colony, in accord with the laws of England. At each Easter assembly the officers were to be elected for the ensuing year. For seven years the company could transport settlers free of customs to the colonies, and for twenty-one years there should be no tax on imports to or exports from English dominions, except a five per cent. duty. The colonists and their descendants were to have the civil rights of English-born subjects.

With growing population, the assembly of all the freemen gave place in 1634 to a representative "general court," although this was not provided for in the charter. In 1644 the court separated into two bodies, each of which could exercise a veto on the acts of the other.

The charter of Massachusetts Bay was taken away in the general abrogation of New England charters in 1684. In 1691 William and Mary organized and char-

tered the "Province of Massachusetts Bay" comprising the old colony, New Plymouth, Maine, and Acadia or Nova Scotia.

The charter reserved to the Crown the appointment of the governor, lieutenant-governor, and secretary of the province, and the officers of the court of admiralty. It provided for the appointment annually of a governor's council of twenty-eight members chosen by the general court. The governor, with advice of the council, had the power of appointing all military officers, and judges, and civil officers connected with the administration of justice. He was commander-in-chief of militia, but could not exercise martial law without advice of the council. He could call the general court and adjourn, prorogue, or dissolve it, and veto its laws. The general court was to assemble annually in May, and was to consist of the governor, council, and a house of representatives. Representatives must be freeholders, annually elected by male adults of each town who possessed a freehold of forty shillings annual rent, or other estate to the value of £40. Each town was entitled to two representatives, the general court to decide from time to time the additional representatives. The general court was invested with authority to erect courts, levy taxes, make laws not repugnant to those of England, and appoint all officers not otherwise provided for. The Crown reserved the right to annul any law so made within three years after enactment. Appeals to the privy council of the Crown were allowed in law cases involving the sum of £300 or over. Admiralty jurisdiction and that over fishing rights off the coast were reserved to the Crown. Liberty of conscience was allowed to all Christians save Papists.

At the session of the general court after the charter of 1691 was granted, an act was passed declaring the civil rights of the people.

It embraced the principal provisions of Magna Charta; it ordained that no tax could be levied but by the general court; it secured trial by jury to the people; it declared all lands free from escheats and forfeitures except in cases of high treason.

The New Hampshire Land Grants. In 1629 and 1635 Captain John Mason obtained grants from the Council for New England at Plymouth, England, of certain territory now generally comprised in New Hampshire, by which name the region was then denominated. Massachusetts contended that, by her charter, her limits included this territory, and, being comparatively strong, she maintained jurisdiction over it for forty years. The controversy was finally brought before Charles II. in council, and in 1679 the claim of Massachusetts was disallowed; but it was also adjudged that Mason under his grant had no right to exercise any powers of government, and so a royal commission was issued for its administration as a separate royal province, the government being vested in a president and council appointed by the Crown, and an assembly chosen by the people.

From 1686 to 1689 New Hampshire formed a part of the "Dominion of New England" under Andros. There being no provincial authority at the close of this period, a convention of the four leading towns attempted to establish one. On its failure to do so, in 1692, Samuel Allen, an assignee of Mason, procured from the Crown (William and Mary) the formation of a royal government for the province, putting Allen's son-in-law, John Usher, as lieutenant-governor at the head. A boundary dispute with Massachusetts followed which was not settled until 1741, when George II. ratified the decision of a royal commission, fixing

the present line. A dispute arose with New York over the boundary between New Hampshire and that province in 1749, when the first of the hundred odd "New Hampshire grants" (the Bennington grant) was made in the disputed territory (now Vermont) by the eastern province. This was finally settled by George III., in council, fixing the Connecticut river as the boundary.

The controversy, however, continued. In 1771 Colonel Ethan Allen organized a military force called the "Green Mountain Boys" to oppose the royal decree. On March 13, 1775, a conflict occurred in Cumberland county with the royal authorities, in which two persons were killed. The Revolution then began, and the controversy became one between States and not colonies.

At various times in 1776 the representatives of the towns in the "Grants" had assembled in convention at Dorset and Westminster, and, on January 15, 1777, they adopted a declaration of independence and assumed the name New Connecticut. They appointed a committee to ask recognition as a State by Congress. This request was received favorably, for the "Green Mountain Boys" under Colonel Allen had rendered valuable service to the country at Ticonderoga and in the unfortunate expedition against Quebec, but Congress felt obliged to refuse it as conflicting with the claim of New York to the territory under the adjudication of the royal privy council in 1774.

The chief adviser of the committee when it came to Philadelphia was Dr. Thomas Young, a prominent physician and patriot who had helped in the drafting of the Philadelphia constitution. He suggested the appropriate name of "Vermont" for the State, and also

sent through the committee to their constituents a circular letter urging them to adopt a constitution on the Pennsylvania model. The representatives of the people adopted both recommendations in convention at Windsor in July, 1777, the constitution containing the Pennsylvania features of a single chambered legislature; a plural executive, and a council of censors, the last named being incorporated in the government afterwards formed, and continuing until 1870. One clause in the constitution abolished slavery; this was the first action of the kind by a governmental body in the country.

The first legislature under this constitution met at Windsor in March 1778, and voted to admit into the self-constituted State sixteen towns across the Connecticut which were dissatisfied with the government of New Hampshire. In reprisal New Hampshire formed a secret agreement with New York to divide Vermont between them, the central longitudinal range of mountains being the boundary. Learning of this, the British government offered to recognize Vermont as a separate province under liberal terms if she would desert the Revolutionary cause. This proposition the patriots refused to accept. Vermont finally settled her differences with New Hampshire in 1782, the west bank of the Connecticut being fixed as the boundary between the two States. New York, however, refused to abandon her stronger legal claims until 1790. In the meantime Vermont continued her government as an independent State, unrecognized by Congress. It was admitted into the Union on March 4, 1791, the first new State to be so received under the Constitution. The legislature met at various towns until 1808 when Montpelier was selected as the permanent capital.

The Land-System of Maine. In 1639 Sir Ferdinando Gorges obtained from the Crown a grant of all the land from Piscataqua to Sagadahock and the Kennebeck River, and from the coast into the northern interior 120 miles. It was styled "The Province of Maine," and Gorges was made "lord palatine" of it, with all the powers, royalties, etc., belonging to the bishop of the county palatine of Durham, which was frequently cited in the debate in Parliament on the "right to tax America" as a county without representation in Parliament, being under the supreme authority of the Crown.*

The lands were to be held "as of the manor of East Greenwich, in England," etc. The Church of England and its ecclesiastical government were exclusively established in the province. The palatine was authorized, with the assent of the majority of freeholders, to make laws not repugnant to those of England, and to erect courts with appeal to the palatine. But all powers of government were to be subordinate to the English board of trade and plantations.

A controversy over jurisdiction arose with Massachusetts at the time of that between Massachusetts and New Hampshire. The privy council of the Crown adjudged the claim of Massachusetts void, and so that colony, in 1677, shrewdly purchased the title of Gorges for a small sum, thus forestalling the design of the Crown to make it a royal province under commission government like New Hampshire. Massachusetts governed Maine as a dependency until the fall of its own government in 1684. In 1691 Maine was incorporated with Massachusetts.

* See Volume I., page 111.

Settlement of Connecticut. In 1633 members of the New Plymouth colony established a trading post on the Connecticut River near Windsor, and John Oldham, of Massachusetts, explored the valley. Returning home, Oldham gave a good report of the fertility of the region, whereupon three bands of Massachusetts people, who were dissatisfied with the autocratic government of the Puritan colony, swarmed thither from the parent hive, founding Wethersfield, Windsor, and Hartford in 1634-35. In 1639 they drew up an instrument known as the "Fundamental Orders of Government," which did not differ so greatly from the Massachusetts polity as would be expected. Still, it was somewhat more democratic, the authority of the governor being limited to that of presiding office of the general court, the supreme authority, which was composed of representatives from the towns. Governor and magistrates were elected by the people. There was no clear separation of executive, legislative, and judicial functions of government. No religious test was required for citizenship. In 1659 a property qualification (possession of an estate of £30) was imposed for suffrage.

Meanwhile, a party of Puritans from England who had sojourned one year in Boston founded New Haven, purchasing the land from the Indians. These colonists, being devout members of the mechanic and agricultural "middle-class" in the old country, were too busy hewing out homes and farms from the forest to concern themselves with pen-work, and so they drew up a brief "plantation covenant" which made the Bible the supreme guide in civil as in religious affairs.

During the next year, with more leisure, the settlers adopted the rules of Scripture as specifically applicable

to the choice of magistrates, the enactment and repeal of laws, the dividing of inheritances, etc., and ordained that only church members should become free burgesses. Officials were selected from the same class by an intermediate process, all the burgesses choosing twelve of their number, who in turn choose seven others to administer the affairs of the colony.¹

Other towns sprang up around the parent stock of New Haven—one, indeed (Southold), a plant from seed wafted across the Sound to eastern Long Island—and they were admitted on equal terms into the government of the colony.

In 1644 the general court adopted “the judicial laws of God as they were declared by Moses” as the rule for all courts “till they be branched out into particulars hereafter.” Accordingly the common law of England was ignored, with the safeguard of trial by jury; the death penalty was inflicted for adultery, etc.; severe punishment was meted out to Sabbath-breakers, and heavy fines were imposed for harboring “Quaker or other blasphemous heretics.” These are known as the “Blue Laws of Connecticut.”²

¹ This principle the makers of the Constitution adopted in the device of the Electoral College for the selection of a President and Vice-President—an expedient for controlling the will of the people which the spirit of democracy has rendered futile by the obvious parry of rigidly instructing the electors, with the result that membership in the College has become an empty honor, largely sought after, not by the best people, as fondly expected by the “Fathers,” but by the ostentatious rich men who contribute to campaign funds.

² The Rev. Samuel Peters, a loyalist clergyman of the Church of England, who had been forced to flee from Connecticut preceding the Revolution, published at London in 1781 a *General History of Connecticut* in which appeared a collection of forty-five laws of this character which he imputed to the New Haven colony. Some of them, however, were laws passed elsewhere in New England, and others—and these the most extreme and therefore the most quoted—were not in force in

Soon after the restoration to the throne of Charles II., the Hartford Colony applied to that complaisant monarch for a charter of territory and government. This was granted in 1662, and the king, always generous in disposing of others' rights and property, also included in the charter the whole colony of New Haven without even consulting that theocracy. New Haven naturally resisted the incorporation, and it was not until 1665 that complete union with Hartford was effected, that city becoming the seat of government. From 1701 to 1873, when Hartford again became the capital, the government alternated its seat annually between the towns.

In 1685, a *quo warranto* was issued by James II. against the colony for the repeal of the charter. No judgment appears to have been rendered upon it; but the colony offered its submission to the will of the Crown; and Sir Edmund Andros, in 1687, went to Hartford, and, in the name of the Crown, declared the government dissolved. The people did not, however, surrender the charter, but secreted it in an oak (which remained to be venerated until 1856, when it was felled by a storm), and immediately after the revolution of 1688 they resumed the exercise of all its powers. The successors of the Stuarts silently suffered the people of Connecticut to retain the charter until the Revolution, and it continued to be maintained as a fundamental law of the State until the year 1818, when a new constitution of government was framed and adopted by the people.

Sketch of Williams. Roger Williams, the son of a London tailor, fell under the notice of Sir Edward Coke

Connecticut. This has been demonstrated by Walter F. Prince in "The Report of the American Historical Association for 1898."

as a boy of parts, and that great jurist educated him at the Charter House School and at Cambridge University. According to tradition he then studied law under Coke; certainly he studied theology about that time, for, two years after graduation from the university, he became a private chaplain to a member of the nobility. Refusing preferment to a "living" from conscientious scruples, he decided to emigrate to New England, and, in 1631, came with his wife to Boston. He was soon attached to the church at Salem as teacher and pastor's assistant. Here he taught that the civil power had no proper jurisdiction over the consciences of men, and magistrates should not require an unregenerate man to commit sacrilege by taking an oath, since this is a form of worship. He also asserted that the patent of the Crown conveyed no just title to the land, which should be bought from its rightful owners, the Indians.

These doctrines, attacking as they did the religious and civil jurisdiction of the authorities of the colony, caused Williams to be brought to trial by the general court in July, 1635. The general court condemned Williams, but gave him time to recant his subversive doctrine until the next session. Not having done so, at the meeting in October it was ordered that he leave the colony within six weeks. The time was subsequently extended on conditions, but in January, 1636, an attempt was made to seize him and transport him to England. Forewarned, he escaped from Salem into the jurisdiction of New Plymouth colony, whence at the instance of the authorities, he proceeded southward with four companions, and found a settlement which he called Providence, in memorial of "God's merciful providence to him in his distress."

Settlement of Rhode Island. Williams established friendly relations with the Indians in the vicinity, and learned their language, and, in accordance with his principles, bought from them the land of the "plantation." The influence which he thus acquired enabled him in the same year to return good for evil to those who had spitefully used him, by inducing the tribe, the Narragansetts, to ally themselves with the Massachusetts colonists in the Pequod War.

Williams and his associates founded the settlement on the principle of complete religious toleration, and many persons "distressed for conscience" resorted thither from the Pilgrim and Puritan colonies. Among these were Anabaptists, who converted Williams to the doctrine of immersion, and with them he established the First Baptist Church in America. In a few months, however, to preserve his liberty of conscience, he separated himself from the sect, and became what was known as a "Seeker," or Independent, continuing, however, to preach.

Antinomians under William Coddington, John Clarke, and Anne Hutchinson formed a settlement in 1638 at Portsmouth in the northern part of the island of Aquidneck in Narragansett Bay. In 1639 Coddington and Clarke removed to the southern end of the island and founded Newport. In 1643 seceders from Providence founded Warwick on the western shore of Narragansett Bay, ten miles south of Providence.

In 1643 Williams went to England, and secured in the same year from the Earl of Warwick a charter of incorporation of these settlements with Providence. In the following year he obtained from Parliament (Charles I. having been driven from London) a charter for the four towns under the title of "The Providence

Plantations in the Narragansett Bay," giving the colonists absolute government of themselves, but according to the laws of England.

Under this charter an assembly was convened in 1647, consisting of the collective freemen of the various plantations. The legislative power was vested in a court of commissioners of six persons, chosen by each of the four towns then in existence. The whole executive power seems to have been vested in a president and four assistants, who were chosen from the freemen, and formed the supreme court for the administration of justice.

The independent, separatist spirit which had led to the settlement of Providence and caused the proliferation of communities in the colony, brought about a split in the confederation in 1651 between the mainland and the island towns. William Coddington secured from England a charter for the government of the two towns on the island of Aquidneck (renamed Rhode Island in 1644) and also of Connecticut.

Accordingly in 1651, with John Clarke, Williams again visited England to secure the annulment of Coddington's charter. This he succeeded in accomplishing by cultivating the friendship of the Lord Protector Cromwell, and of Milton and other influential Puritans, and he returned home in 1654. Clarke remained in England and, after the Revolution, obtained in 1663 from Charles II. a new charter for "The Governor and Company of the English Colony of Rhode Island and Providence Plantations," the colonists having shown their loyalty by proclaiming the king on his accession to the throne. In order not to discriminate between the two divisions of the colony, the seat of government was alternated annually between Providence and Newport,

an arrangement which persisted until 1900 when Providence was made the sole capital.

In December, 1686, Andros dissolved this government and assumed the administration of the colony. On the revolution of 1688, the colony resumed its charter, and, with minor interruptions, maintained government under it until the American Revolution.

The New England Confederation. Largely to combat Indian hostiles and Dutch foes who had established trading posts in territory claimed by the colonists, the colonies of Massachusetts Bay, New Plymouth, Connecticut (Hartford), and New Haven formed in May, 1643, a confederacy by the name of "The United Colonies of New England." Rhode Island applied for membership, but this was refused upon the ground that her territory lay within the limits of New Plymouth.

The articles of union declared that it was to be a perpetual league of friendship, for offense and defense, and mutual advice and succor. The charges of all wars, offensive and defensive, were to be borne in common, according to an apportionment based on male inhabitants of an age (16 to 60) able to bear arms. In case of invasion of any colony, the others were to furnish a similar proportionment of armed men for its assistance. Each colony was to retain its jurisdiction, but the affairs in common were to be managed by a board or legislature consisting of two commissioners from each colony.¹ These were to meet annually in each colony by rotation. The board was empowered to determine all affairs of war and peace, leagues, charges, etc., and to frame and establish agreements and orders for other general interests. Six commissioners at least were required to approve an act. Runaway servants² and fugi-

¹ A precedent for the composition of the Senate under the Federal Constitution of 1789.

² A precedent for the Fugitive Slave acts under the Constitution.

tives from justice^x were to be returned each to the colony from which he had fled.²

This confederation lasted about forty years—until the New England colonies were deprived of their charters by the arbitrary will of James II. It served not alone to protect the members from their Dutch and Indian enemies, but also to fix colonial boundaries, and adjust duties on intercolonial trade, although these matters were not executed without friction.³

Settlement of Maryland. This territory was included originally in the patent of the London, or Southern Virginia, Company, and, upon the dissolution of that company in 1624, it reverted to the Crown. Charles I. in 1632 granted it to Cecelius Calvert, Baron Baltimore, the son of George Calvert, Baron Baltimore, for whom the patent was intended, but who died before its execution. By the charter it was erected into a province and named Maryland in honor of the queen Henrietta Maria, to be held of the Crown of England, the patentee to pay yearly forever two Indian arrows.

The first emigration made under the auspices of Lord Baltimore was in 1632, and consisted of about two hundred gentlemen of considerable fortune and rank, and their adherents, being chiefly Roman Catholics. Says Chalmers⁴:

^x A precedent for Extradition among the States under the Constitution.

² For the full text of these articles see Appendix I. in *The Origin and Growth of the American Constitution* (1911), by Hannis Taylor.

³ The remarkable similarity of the principles and terms of this New England union and those of the Confederation of the Thirteen States will be noted. See Volume I., Chapter VII.

⁴ George Chalmers (1742–1825), a Scotch immigrant to America, was a loyalist who returned to England at the outbreak of the Revolution.

"He (Baltimore) laid the foundation of this province upon the broad basis of security to property and freedom of religion, granting, in absolute fee, fifty acres of land to every emigrant; establishing Christianity agreeably to the old common law, of which it is a part, without allowing preëminence to any particular sect. The wisdom of his choice soon converted a dreary wilderness into a prosperous colony."

The first legislative assembly of Maryland, held by the freemen at large, was in 1634-1635. In 1638-1639 provision was made, in consequence of an increase of the colonists, for a representative assembly, called the House of Assembly, chosen by the freemen; and the laws passed by the Assembly, and approved by the proprietary, or his lieutenant, were to be of full force.

At the same session, an act was passed, declaring, among other things, that "Holy Church, within this province, shall have all her rights and liberties; and that the inhabitants shall have all their rights and liberties according to the great charter of England." In 1649, an act was passed punishing blasphemy, or denying the Holy Trinity, with death and confiscation of goods and lands.

Under the protectorate of Cromwell, to Roman Catholics was expressly denied any protection in the province; and all others, "who profess faith in God by Jesus Christ, though differing in judgment from the doctrine, worship, or discipline, publicly held forth," were not to be restrained from the exercise of their religion. In 1696 the Church of England was estab-

He wrote a number of historical works, one of which, *Political Annals of the Present United Colonies* (1780), is valuable for the information therein contained on colonial constitutional government.

lished in the province under control of the Bishop of London; and in 1702 the liturgy and rites and ceremonies of the Church of England were required to be pursued in all the churches—with such toleration for dissenters, however, as was provided for in the act of William and Mary. The introduction of the test and abjuration acts, in 1716, excluded all Roman Catholics from office.

In the silence of the statute book, says Story, until 1715 it is presumed that the system of descents of intestates was that of the parent country. In that year an act passed which made the estates partible among all the children. Maryland, like the other colonies, was early alive to the importance of possessing the sole power of internal taxation; and accordingly in 1650 it was declared that no taxes should be levied without the consent of the general assembly.

Upon the Revolution of 1688, the government of Maryland, the assembly having revolted against the proprietary, was seized into the hands of the Crown, and was not again restored to the proprietary until 1716. From that period no interruption occurred until the American Revolution.

Settlement of New York. The territory traversed by the river bearing the name of its explorer (though not the first) in 1609, Henry Hudson, an English navigator in the service of the Dutch East Indian Company, was claimed by the United Netherlands by virtue of Hudson's action, although, as we have seen, the English had already asserted title to it as a part of Virginia. In 1610 the Dutch despatched a ship with merchandise to the river, and inaugurated a profitable trade with the Indians. As a result of this, Dutch merchants of Amsterdam and Hoorn formed the New Netherland

Company in 1614, receiving from the States-General a three years' monopoly of the fur trade in the region between New France and Virginia (40 to 45 degrees north latitude). A fortified trading post, Fort Nassau, was established on the present site of Albany, and in 1617 a treaty of peace and alliance was made with the Iroquois confederacy (the Five Tribes). The charter of the New Netherland Company was not renewed on its expiration in 1618, but in 1621 the West India Company was chartered by the States-General with a monopoly of trade for twenty-four years for the whole North and South American Atlantic coast. It was authorized to plant colonies under a governor appointed by the States-General. In 1623, the province of New Netherland was organized under management of the Chamber of Amsterdam, which in 1624 sent over a colony of thirty families under a governor. These were established at Manhattan island, Fort Nassau on the Delaware River, and at the present sites of Hartford, Ct., and Albany, N. Y. The government of the province was vested in 1626 in a director-general and council. In the same year, Peter Minuit, the first director-general, came with colonists to Manhattan and, purchasing the island from the Indians there for \$24, built Fort Amsterdam, and made the settlement, called New Amsterdam, the seat of government.*

In 1629, the New Netherland Company issued a Charter of Privileges and Exemptions, permitting every founder of a colony of fifty persons to receive in perpetuity a great tract of unoccupied land extending

* For a general history of the successive administrations of the New Netherlands, see Washington Irving's *Knickerbocker History of New York*, which, despite its humorous exaggeration of Dutch character, presents accurately the main historical facts.

indefinitely backward from sixteen miles of sea-coast or river-shore, or from eight miles of opposing river-shores. Such founders were called "patroons." Though theoretically limited in power of government, practically they were autocrats. All the favorable tracts were taken up by the directors of the Company, and let out to settlers on perpetual leases. This afterwards caused great contention in the colony, and, the land titles of the patroons being continued in the hands of a few powerful families under the succeeding English rule, the controversies arising from them continued down to the Anti-Rent agitation in New York, which was terminated by the adoption in 1846 of a new constitution for the State, abolishing feudal tenures and limiting future leases, and thereby causing the great land-owners to divide and sell their estates.¹

The freedom of trade with the Indians exercised by the patroons conflicted with the attempts of the governors of New Amsterdam to collect tribute from the tribes. One such attempt in 1643 led to a massacre of resisting Tappan Indians by the soldiers of Governor William Kieft, which precipitated general hostilities of the northern tribes against English as well as Dutch colonists; and all the outlying settlements were destroyed. The Dutch colonists therefore demanded a voice in the government, and Kieft was forced to call an assembly twice during the troubles, which were ended by the Dutch employing a force of New Englanders under Captain John Underhill, a hero of the Pequod war, who defeated the hostiles in several engagements, leading to a general treaty of peace in 1645.

¹ For arguments in favor of the landlords see James Fenimore Cooper's novels, *Satanstoe* (1845), *The Chain Bearer* (1845), and *The Redskins* (1846).

The first assembly increased the number of Kieft's councilors from one to five, and the second assembly increased it from five to eight. The second council protested against Kieft's arbitrary measures, and finally secured his recall by the States-General. The council was increased to nine members during the administration of Peter Stuyvesant, Kieft's successor. He treated it with contempt, and it remonstrated to the States-General, which suggested a representative government, but this the Company refused to grant.

By the Treaty of Hartford in 1650 with the New England confederation, the boundary between New England and New Netherland was fixed along the present New York-Connecticut line, and across Long Island southward from Oyster Bay to the Atlantic Ocean.

Threats to assert by force the English claim to New Netherland were made by Cromwell in his war with Holland, but were not executed. In 1664, Charles II. erected into a province the territory from the Connecticut River to Delaware Bay, and granted it to his brother James, Duke of York and Albany (afterwards James I.). Colonel Richard Nicolls was appointed governor and sent over with an expedition to seize the province. By making favorable terms he caused the prominent citizens of New Amsterdam to induce Stuyvesant to surrender the city without fighting.

New Jersey was separated from the province, and a treaty was made with the Seneca and Mohawk Indians. The private rights of the Dutch were preserved, and Nicolls, who had a council whose advice he regarded, made his administration more agreeable to them than that of the arbitrary Stuyvesant. Names of important

places only were changed for English names, such as Albany and New York.

English colonists were settled in the regions adjacent to Manhattan island which were organized into a county called Yorkshire, and were governed by a code known as the "Duke's Laws," based on the principle of New England government in that it gave freeholders the right to choose a board of eight overseers, authorized to try small cases, choose petty officers, etc. Nicolls's successor, Francis Lovelace, continued this mild though autocratic government, religious toleration in particular being enlarged. In 1673, England and Holland being at war, a Dutch fleet captured New York, but, by the Treaty of Westminster in February, 1674, it was restored to the English, who resumed possession in November under a new charter to the Duke of Albany. Edmund Andros, the new governor, was a man of imperious temper and arbitrary rule, which caused the people to clamor for the rights enjoyed by the inhabitants of the other colonies. Accordingly in 1682 the Duke replaced Andros with Colonel Thomas Dongan, a Roman Catholic, with instructions to call an assembly to pass laws, subject to the Duke's ratification. The assembly met in New York in 1683 and passed a charter known by the name of the governor.

It required a popular assembly to be held at least once every three years; it vested legislative power in the governor, his council, and the assembly; it placed the power of the purse in the assembly; and it provided for full religious liberty and trial by jury. Other acts established courts of justice, divided the province into counties, etc.

In 1686, when the Duke had become king, New York and New Jersey were consolidated with the eastern

colonies in the royal Dominion of New England, and all assemblies were dispensed with, Andros (now Sir Edmund) being made the governor-general with the authority of a viceroy.

After the Revolution of 1688 Andros was imprisoned by the Massachusetts colonists at Boston (in 1689), and Jacob Leisler and other militia captains of New York seized Fort James in that city, the lieutenant-governor deserting his post and sailing for England. Leisler called an assembly which made him dictator. Falsely proclaiming that he had received the commission of lieutenant-governor from the new sovereigns, William and Mary, he attempted to raise revenue under the Dongan charter by calling an assembly for this purpose. He was not able, however, to secure one willing to perform his bidding. At this juncture (in 1690) a force of French and Indians burned Schenectady, and Leisler showed executive capacity in calling on the other colonies for concerted action against the common enemy. Delegates from Massachusetts, New Plymouth, Connecticut, and Maryland met with New York representatives in New York City, and sent out an army of 855 men from the colonies represented. The expedition was a military failure, but it formed an example in later years for united action of the colonies against another foe.

William and Mary sent out in 1691 a new governor, Colonel Henry Sloughter, with an advance detachment of troops. He demanded possession of Fort James from Leisler. This was refused, and later Leisler's soldiers fired on the royal troops, killing two and wounding several. On the arrival of the Governor, Leisler and his son-in-law were tried and executed for treason. The justice of the verdict was questioned, and the case

was carried to Parliament, which in 1695 reversed the attainders of the victims. For many years New York was divided into political factions on the question of Leisler's guilt.

Governor Sloughter called an assembly which passed an act similar to the Dongan charter, except that annual sessions of the assembly were provided for, and tolerance was refused the Roman Catholics. The act was disallowed by the Crown in 1697, chiefly because it gave the assembly control of expenditures. Gradually, however, the assembly acquired this power, until in 1714 it was practically in full possession of it.

In 1700, the Governor, Richard Coote, Earl of Bello-mont, rendered inestimable service to the future unification of the colonies by consolidating the laws of the various colonies. In this he was assisted by William Penn, Governor of Pennsylvania.

In 1735, the freedom of the press, and a great step forward toward the independence of the judiciary, were the results of a negative verdict in the trial of John Peter Zenzer, editor of a popular paper, the *New York Weekly Journal*, for libel in criticizing the removal of Chief-Judge Lewis Morris by Governor William Cosby for the refusal of Morris to change the course of judicial proceedings in Cosby's personal interest. The further independence of the judiciary became a leading issue in 1761, when the assembly insisted that judges be appointed during good behavior, and refused to pay the salaries of those appointed during pleasure. The royal government evaded the issue by paying the disputed salaries out of funds at its disposal.

Settlement of New Jersey. In 1623, a Dutch colony built Fort Nassau near the site of the present Gloucester City. Settlements across the Hudson and in the Rari-

tan valley were made in the thirties and onward from Manhattan island (New Amsterdam).

In 1638, Swedish colonists established Fort Christina on the site of Wilmington, Delaware, and, in 1643, built a fort called Elfsborg across the river near the site of Salem, New Jersey. In 1655, both places surrendered to the Dutch Governor, Stuyvesant.

The English claimed the region as a part of Virginia, and in 1634 a patent was issued to Sir Edmund Plowden appointing him governor of the territory now occupied by New Jersey, Delaware, Pennsylvania, and part of Maryland, under the title of "New Albion." Plowden failed to plant a colony in spite of great efforts, and the charter practically lapsed, although an abortive attempt was made as late as 1784 by Charles Varlo, assignee of one third of the grant, to enforce his claim in the chancery court of New Jersey. In 1634, a party of Virginians occupied Fort Nassau, temporarily abandoned by the Dutch. They were captured by a force from New Amsterdam, and sent home by way of that town, arriving in Virginia just in time to prevent a second expedition against Fort Nassau. In 1641, a party of colonists from New Haven settled on the New Jersey bank of the Delaware, and were similarly arrested and sent home.

It was not until 1664 that the English revived their claims to the territory. The Duke of York conveyed in that year that portion of his grant from his brother Charles II. which included the present State of New Jersey to John Berkeley (Baron of Stratton) and Sir George Carteret. The name of *Nova Cæsarea*, or New Jersey, was given to the province. In October of the same year, a force of English under Sir Robert Carr took possession of all the Dutch settlements in the tract.

In 1676 the province was divided between the proprietors into East and West Jersey, by a line running from Little Egg Harbor (twenty miles north of the present Atlantic City) to a point on the Delaware River in forty-one degrees, forty minutes north latitude (extreme north of the State). To William Penn and four other Quakers, who had purchased the interest of Berkeley in 1674, was assigned West Jersey.

Sketch of Penn. William Penn, the son of a naval officer of the same name who afterwards became Admiral, was converted while at Oxford to the doctrines of George Fox, founder of the Society of Friends, commonly called Quakers. He was, to use his phrase, "banished" from the university, probably because of his continued refusal to attend chapel service, for which it is recorded that he was fined. On his return home he was whipped and turned out of doors by his father, a loyal churchman, who, though he had served under Cromwell, gave his allegiance to Charles II. on the restoration of that monarch in 1660, and was knighted in consequence. A reconciliation between father and son was effected, however, and Penn was sent to France to forget in the gayeties of the court of Louis XIV. his Quaker principles. Instead of doing so, he put himself under the tuition of Moses Amyraut, the learned president of the Calvinistic college of Saumur, from whom he gained the theological knowledge later displayed in his controversial writings. Returning to England, after a period of worldly life as a student of law and an aide under his father, now in chief command of the English Navy, he settled down into somber Quakerism. Again his father sent him over sea, this time to Ireland to manage a family estate, and gave him letters to the Irish nobility. Penn, however, pre-

ferred the society of the Friends whom he found there, and was soon arrested for expelling a soldier who was disturbing one of their meetings. He wrote from prison a letter to the president of the county in which he claimed freedom of conscience as a civil right, and this procured his release. Returning to England he became a preacher, and also entered into aggressive controversial authorship, producing a number of books and tracts attacking the doctrines and practices of the Church of England, and upholding those of the Quakers. He also advocated, with partly successful results, toleration by Parliament of dissenters.

In 1670, finding the Quaker meeting-house in London closed by soldiers, he preached in the street, and was arrested for causing "an unlawful, seditious, and riotous" assembly. In the trial that followed Penn defended himself with great boldness and skill, and the jury, openly disregarding for the first time in English legal history the ruling of the court, acquitted him. The court fined the jury, and imprisoned them on their refusal to pay, whereupon they appealed to the court of common pleas and secured a memorable decision in the case (known as Bushell's Case from the name of the foreman), the twelve judges unanimously holding the jury's imprisonment illegal.

The death of Penn's father shortly after this trial placed him in possession of a fortune, part of which consisted of a large claim on the Crown for moneys lent to Charles II. by the Admiral.

In 1671 Penn was again arrested for preaching, and this time the judges, knowing the opposition of Quakers to legal swearing, required him to take the oath of allegiance. On Penn's refusal he was imprisoned for six months. During his incarceration he published

The Great Case of Liberty of Conscience, which remains a classic defense of complete religious toleration.

Penn now traveled as a Quaker missionary through Holland and Germany, and on his return to England married a devout Quakeress. In 1673 he secured the release from prison of George Fox.

As already related, in 1674-1676 Penn and four other Quakers acquired proprietorship of New Jersey. Penn drew up for the colony a constitution under the title of "Concessions," intended to be as near as convenient "to the primitive, ancient, and fundamental laws of the nation of England."

It decreed perfect religious freedom; it reduced imprisonment for debt to a minimum; it punished theft by requiring only restitution in wages or labor; and it provided for a jury of twelve men in all cases affecting life, liberty, or property, with extreme right of challenge of jurors. All cases were to go before three justices and such a jury, *and the former were to be instructed by the latter* "in whom only the judgment resides." In case of neglect or refusal of the justices to act, a juror, with consent of all his fellows, was to pronounce the judgment. Suitors might plead in person, and the courts were public. Questions between Indians and settlers were to be adjudicated by a mixed jury.^x

An assembly was to be held yearly composed of one hundred persons, chosen by the inhabitants and proprietors. Election was to be by ballot, and each representative was to receive a shilling a day from his constituency, "that thereby he may be known to be the servant of the people." The executive power was to be in the hands of ten commissioners chosen by the assembly.

This liberal constitution attracted large numbers of colonists from England, who were chiefly Quakers, and

^x These provisions in regard to trial by jury were, of course, based on Penn's own experience.

New Beverley (soon renamed Burlington) was established, becoming a center of settlement. It was made the capital of West Jersey in 1693.

In 1681 the assembly, with the governor appointed by the proprietors, framed a new government for West Jersey, on the general principles of the "Concessions."

There was to be a governor and council, and a general assembly of representatives of the people. The general assembly had the power to make laws, to levy taxes, and to appoint officers. Liberty of conscience was allowed, and no persons were rendered incapable of office in respect of their faith and worship.

West Jersey continued to be governed in this manner until the surrender of the proprietary government to the Crown.

Carteret died in 1679, and, being sole proprietor of East Jersey, by his will he ordered it to be sold for payment of his debts; and it was accordingly sold to William Penn and eleven others, who were called the Twelve Proprietors. They afterwards took twelve more into proprietorship. Perth Amboy was made the capital of East Jersey in 1686.

Very serious dissensions soon arose between the two provinces, as well as between them and New York, which threatened the most serious calamities. A *quo warranto* was ordered by the Crown, in 1686, to be issued against both provinces. East Jersey immediately offered to be annexed to West Jersey, and to submit to a governor appointed by the Crown. Soon afterwards the Crown ordered the two Jerseys to be annexed to New England, and the proprietors of East Jersey made a formal surrender of its patent, praying only for a new grant, securing their right of soil. Before

this request could be granted, the Revolution of 1688 took place, and they passed under the allegiance of a new sovereign.

From this period, both of these provinces were in a state of great confusion and distraction; and remained so, until the proprietors of both made a formal surrender of all their powers of government, but not of their lands, to Queen Anne, in April, 1702. The Queen immediately reunited both provinces into one province, and by commission appointed a governor over them.

The legislature met alternately at Burlington and Perth Amboy until 1790, when Trenton was selected as the capital of the State.

Slavery (Indian and Negro) had been introduced by the Dutch and Swedes, and was legally recognized by the English on their occupation. East New Jersey enacted a fugitive slave law in 1675.

Settlement of Pennsylvania. Various early settlements were made, as we have seen, by the Dutch and Swedes on the western bank of the Delaware, or South River. The ascendancy was finally obtained under a charter of 1664 to the Duke of York. The plantation, however, continued in a feeble state until 1681, when William Penn obtained a patent from Charles II. by which he became the proprietary.

After framing his "Concessions" for the government of West Jersey, Penn had become absorbed in affairs at home. He made another missionary trip to Holland and Germany in 1677, and, on his return to England, twice addressed a committee of Parliament to secure the insertion in a bill for the relief of Protestant dissenters of a clause enabling the Friends to affirm instead of taking an oath in legal procedure. This would have been inserted, but the bill was not presented owing to

the sudden proroguing of Parliament by Charles II., in compliance with the demand of Louis XIV. as a condition of the grant of a pension to the English king by the French monarch.

Meanwhile the agitation against the "Popish Plot," which was fomented by the extreme Protestants in order to exclude the Roman Catholic Duke of York from succession to the Crown, had thrown the country into a panic, and there came a reaction against the toleration, even among Protestant dissenters, who were willing to stay under the ban lest the disabilities of the Catholics be removed with their own. Penn wrote treatises pleading for pure tolerance, and for the reform of Parliament by impeaching corrupt ministers, punishing members suborned to vote for ministerial measures, and holding frequent sessions of the national legislature. He also actively aided in the repeated elections of Algernon Sidney, the champion of civil rights, only to see Sidney debarred from his seat by court influence.

With the cause of toleration blocked for the time, Penn's thoughts again turned to America, and he asked from the privy council of the Crown, in repayment of the claim he had inherited from his father against it, the grant of the territory north of Maryland and west of West Jersey. Disputes with the Duke of York and with Lord Baltimore delayed the grant until March 14, 1681, when it received the royal signature. Penn desired to give the province the name "Sylvania," whereto the king prefixed "Penn," in honor, he said, of Penn's father, his loyal subject, the Admiral.

By the charter for Pennsylvania Penn was made governor, with a right to form whatever government he saw fit under the following conditions:

Laws should not be repugnant to English law; appeal from them might he had to the Crown; Parliament was supreme in questions of trade; the right to levy taxes and customs was reserved to England; Penn was to keep an agent in London; neglect by Penn to fulfil the conditions would cause reversion of the grant to the Crown (this, as we shall see, occurred in 1692); and no communication was to be had with countries at war with England; Anglican ministers were to be appointed by the Bishop of London should twenty colonists desire it, a condition inserted on demand of the Bishop which Penn was forced to accept, doing so most reluctantly, since it contained the principle of church establishment, to afford dissenters an escape from which Penn was founding the colony.

Appointing Colonel William Markham, his cousin, as his deputy, and sending him with three commissioners to Pennsylvania to manage affairs till his own arrival, Penn began to promote colonization from England and Germany by publishing accounts of the resources of the country. His work was very effective, twenty thousand acres being sold to prospective settlers, for Penn refused to encourage speculation among non-residents by granting monopolies. He drew up a constitution, "Conditions and Concessions," which contained some of the principles of James Harrington's utopian book on government, *Oceana*, published in 1656. It is also said that Algernon Sidney aided him in the composition of the plan.

This provided for a council of seventy-two members, elected by the people every three years, and one third of whom retired each year, and for an assembly elected annually. No qualifications were prescribed for electors.

Penn came over with a company late in 1682. He convened the assembly at Upland, a Swedish settlement

which he renamed Chester, and it passed the "Great Law of Pennsylvania" incorporating Penn's ideas of freedom and tolerance. In November, 1683, Penn made a treaty with the Indians, purchasing their lands. Philadelphia was founded as the capital, and in two years it contained 2500 inhabitants. Germantown near by was shortly settled by a body of Penn's proselytes from Germany. They declared that it was wicked for Christians to hold slaves, and their influence subsequently made Philadelphia the center of the abolition movement.

In 1684, Penn returned to England and used the great influence he had now acquired to restore the philosopher John Locke, who had been dismissed from Oxford by Charles II. for his political views, and to release twelve hundred imprisoned Quakers. He vehemently opposed the cruelty of Jeffries, the judge at the "Bloody Assizes" following Monmouth's Rebellion. He wrote more books on toleration, and, in 1687, upon publication of the "Declaration of Indulgence" by James II., he drew up the address of thanks by the Quakers. At the Revolution of 1688 he spoke boldly before the privy council in James's behalf. In 1690, he was proclaimed by Queen Mary, in the absence of the king, as a dangerous person, but no steps were taken against him.

While in Pennsylvania Penn had written an attractive account of the region from his own observation. He supplemented this and disseminated the two publications widely, to the increase of colonists.

Meanwhile things were not running smoothly in Pennsylvania. The council and the assembly were at odds, and Penn did not receive his rents. Then the Crown, already displeased with Penn, became dissat-

isified with the lack of military defense of the colony, due to Quaker principles, and, in 1692 deprived Penn of the governorship, and gave this to Colonel Benjamin Fletcher, Governor of New York. Penn was charged with treasonable correspondence with the banished James; he demanded a hearing before the king and council, and was honorably acquitted of this charge and all others of treason. In 1694 he was restored to the governorship of Pennsylvania on his promise to supply men and money for the defense of the frontiers. He remained in England, however, writing on Quakerism, and preaching against abuses, among others, the oppression of Ireland.

In 1699 he returned to Pennsylvania. Here he reconciled the conflicts between officers endeavoring to have the colony transferred back to the Crown, and those working in Penn's interest; he compromised with Quaker principles by taking forcible action against piracy; and sought to allay the abuses of slavery without forbidding the practice, abolition being demanded by the Quakers. He made another treaty with the Indians in 1700, securing their promise not to aid any foe of England, and to trade exclusively with the province through agents approved by the governor.

He was requested to revise the charter of Pennsylvania to suit changed conditions, and he did so in 1701.

An assembly was to be chosen yearly, of four persons from each county; it was to have all the powers of the English House of Commons; two thirds of the members formed a quorum; it could propound laws (denied by the first charter) as well as enact them. The governor was authorized to nominate the county officers from names presented by the freeholders. The council was to be appointed by the governor.

The other terms of the original charter were continued, inviolability of conscience being emphatically reiterated. Pennsylvania remained under this constitution until the Revolution.

Penn returned to England immediately after this work, and assumed leadership of the dissenters, preparing and reading their address of thanks to the Throne for its promise to maintain the Act of Toleration.

Again trouble arose in Pennsylvania in his absence. Opponents of proprietary government obstructed the business of the assembly; and the Governor, John Evans, was injudicious in applying repressive measures in the matter. A boundary dispute also arose with Lord Baltimore, proprietor of Maryland. Penn's eldest son William became the ringleader of dissolute characters in Philadelphia, causing great grief to his father, who virtually disinherited him.

Affairs grew bad for Penn in England also. He was swindled by his steward, from whom at times he had borrowed money, and who presented a large bill against him, which was allowed by the courts. Penn spent nine months in Fleet prison rather than pay the unjust claim, and was released only by his friends compounding with the steward.

Penn was also failing in health; so, in 1712, he proposed to surrender his powers as proprietary of Pennsylvania to the Crown. Before the matter was arranged, he was seized with an epileptic fit impairing his intellect and memory. His strong physical constitution enabled him to survive this, as well as another attack in 1713, for several years. He died in 1718.

In 1790, after the Revolution, the proprietary rights of Penn's descendants were bought off by the State of Pennsylvania by an annual pension of \$20,000 to the

heir to whom the rights had come down and to each heir in the following line of descent. This was commuted by the State in 1884 by payment of the lump sum of \$335,000.

The boundary dispute with Maryland continued after Penn's death, and was finally settled by the establishment in 1763-1767 of a line between the colonies, called "Mason and Dixon's line" after the names of the surveyors. Since it formed the chief eastern boundary between the free and the slave States, the term was later used, in the controversy over slavery, as a figure of speech (*synecdoche*) to designate the line of separation between these sections extending across the Union. In 1784 Virginia and Pennsylvania agreed to the prolongation of the Mason and Dixon line as the southern boundary of the latter State, and fixed its present western boundary, Ohio being then a part of Virginia's "northwest territory." In 1789 the forty-second parallel was made the northern boundary, and in 1792 the Federal government, to whom New York had ceded the land north of this line and west of the western boundary of New York, sold it to Pennsylvania to give that State an outlet to Lake Erie.

The Pennsylvania assembly had frequent disputes with the proprietary governors over salaries, grants for military expenses, etc. However, it liberally assisted General Braddock in his campaign against Fort Duquesne (on the site of Pittsburgh) in 1755, in the Seven Years War with France. After Braddock's defeat by the combined French and Indian forces, all western Pennsylvania was devastated by the Indians. Benjamin Franklin raised and led a volunteer militia against them with success, and in 1756 a line of forts was established which thereafter held them back. So

great was the hatred of the red men among the wilder spirits that, in 1763 six Christian Indians were wantonly murdered by a party of young men from Paxton (near the present Harrisburg). The Indians who escaped were taken to Lancaster for safe-keeping, but the "Paxton Boys" followed them up and killed them; then, with other backwoodsmen, they marched on Philadelphia early in 1764 vowing vengeance on the Quakers, whom they blamed for not sufficiently protecting the frontier. Civil war was, however, averted by the diplomatic Franklin.

Settlement of Delaware. After Penn had become a proprietary of Pennsylvania, he purchased of the Duke of York, in 1682, all his right and interest in the territory afterwards called the Three Lower Counties of Delaware, which at this time were inhabited principally by Dutch and Swedes.

In the same year, with the consent of the people, an act of union with the province of Pennsylvania was passed, and an act of settlement of the frame of government in a general assembly, composed of deputies from the counties of Delaware and Pennsylvania. By this act the three counties were, under the name of the Territories, annexed to the province; and were to be represented in the general assembly, governed by the same laws, and to enjoy the same privileges, as the inhabitants of Pennsylvania. Difficulties soon afterwards arose between the deputies of the province, and those of the territories; and, after various subordinate arrangements, a final separation took place between them, with the consent of the proprietary, in 1703. From that period down to the American Revolution, the territories were governed by a separate legislature of their own, pursuant to the liberty reserved to

them by a clause in the original charter or frame of government.

Settlement of North and South Carolina. In 1662–1663 Charles II. made a grant to Edward Hyde, Earl of Clarendon, and others of the territory on the Atlantic ocean between Virginia and Florida extending westward to the South Seas; and erected it into a province named Carolina after himself.

It was to be held in the manor of the East Greenwich, etc., in *socage*, etc. The grantees were created absolute lords proprietaries, saving the faith, allegiance, and supreme dominion of the Crown, with palatine powers, such as given to Gorges, of Maine. The charter seems to have been copied from that of Maryland, and resembles it in many of its provisions. It required that all laws should “be consonant to reason, and, as near as may be conveniently, agreeable to the laws and customs of this our kingdom of England.” It declared that the colonists and their descendants were entitled to all the civil rights of English-born subjects. A second charter was granted in 1665, confirming the first and enlarging and defining the boundaries.

Several detached settlements were made in Carolina, which were at first placed under distinct temporary governments, each with its own assembly; one was in Albemarle (now in North Carolina), another south of Cape Fear (which was regarded as marking the boundary between the Carolinas).

In 1669 the proprietaries decreed a fundamental constitution, the object of which was declared to be “that we may establish a government agreeable to the monarchy, of which Carolina is a part, that we may

avoid making too numerous a democracy." This constitution was drafted by John Locke.^x

It provided that the palatine be the oldest proprietary, and that the office be hereditary in his line; that each of the other proprietaries hold a high office; two orders of hereditary nobility were instituted with suitable estates.

The provincial legislature, dignified by the name of Parliament, was to be biennial, and to consist of the proprietaries or their deputies, of the nobility, and of representatives of the freeholders. They were all to meet together (like the ancient Scots Parliament) and each member was to have one vote. A grand council, composed of the proprietaries and forty-two councillors, was to prepare all bills. No act was of force longer than until the next session of Parliament, unless ratified by the palatine and a quorum of the proprietaries. All laws were to become void at the end of a century without formal repeal. To the Church of England alone was allowed public maintenance. Every man of seventeen years must be enrolled as a member of some religious denomination in order to receive benefit of the laws, and no man who did not acknowledge God, and that He was publicly to be worshipped, could have civil rights or possess a habitation in Carolina. In other respects there was a guaranty of religious freedom. Every freeman was to have absolute power over his negro slaves. Trial by a jury of peers was appointed for all criminal and civil causes, the verdict of the majority to be binding. Lawyers were enjoined to try cases gratuitously, since "it shall be a base and vile thing to plead for money or reward." All expositions of the constitution were forbidden, "since multiplicity of

^x John Locke (1632-1704), in early life studied medicine, becoming the family physician of the Earl of Shaftesbury, who, on becoming Lord Chancellor gave him a secretarial position in the government. In this capacity Locke framed the constitution for Carolina.

comments, as well as of laws . . . serve only to obscure and perplex."

After a few years' experience of this government, the plain people, who did not appreciate its theoretical perfection as designed by the philosophical author, but who realized its cumbersome working and tyrannical effect, demanded a return to the old, simple government with its democratic assemblies. The proprietaries obeyed the will of the people in 1693, too late, however, to preserve their power, for Locke's constitution had introduced a discord into the colony which divided the people sharply into the warring classes of aristocrats and democrats, and eventually led the proprietaries (in 1729) to surrender the province to the Crown.

The form of government conferred on Carolina, when it became a royal province, says Story in his *Commentaries*, consisted of a Governor and Council appointed by the Crown, and an Assembly chosen by the people; and these three branches constituted the legislature. The Governor convened, prorogued, and dissolved the legislature, and had a negative upon the laws, and exercised the executive authority. He possessed also the powers of the court of chancery, of the admiralty, of supreme ordinary, and of appointing magistrates and militia officers. All laws were subject to the royal approbation or dissent, but were in the meantime in full force.

In 1732, for the convenience of the inhabitants, the province was divided; and the divisions were distinguished by the names of North Carolina and South Carolina.

On examining the statutes of South Carolina, a close adherence to the general policy of the English laws is apparent.

As early as the year 1712, a large body of the English statutes were, by express legislation, adopted as part of its own code; and all English statutes respecting allegiance, all the test and supremacy acts, and all acts declaring the rights and liberties of the subjects, or securing the same, were also declared to be in force in the province. All and every part of the common law, not altered by these acts, or inconsistent with the constitutions, customs, and laws of the province, was also adopted as part of its jurisprudence.

In respect to North Carolina, there was an early declaration of the legislature (1715), conformably to the charter, that the common law was, and should be, in force in the colony.

All statute laws for maintaining royal prerogative and succession to the Crown; and all such laws made for the establishment of the Church, and laws made for the indulgence to Protestant dissenters; and all laws providing for the privileges of the people, and security of trade; and all laws for the limitation of actions, and for preventing vexatious suits, and for preventing immorality and fraud, and confirming inheritances and titles of land, were declared to be in force in the province.

Settlement of Georgia. In the same year in which Carolina was divided (1732), a project was formed for the settlement of a colony upon the unoccupied territory between the rivers Savannah and Altamaha. The object of the projectors was to strengthen the province of Carolina, to provide a maintenance for the suffering poor of the mother country, and to open an asylum for the persecuted Protestants in Europe; and, in common with all the other colonies, to attempt the conversion and civilization of the natives.

This humanitarian purpose was due to the moving

spirit among the projectors, James Edward Oglethorpe. Oglethrope entered Parliament in 1722. The death of a friend in the debtors' prison drew his attention to the abuses resulting from imprisonment for debt, and he brought them before Parliament. Appointed to investigate them he determined on colonization as a remedy, and organized a company of twenty-one public-spirited men to colonize Georgia in the manner and for the purpose mentioned.

In 1732, George II. gave a charter to the company, and incorporated them by the name of the "Trustees for establishing the Colony of Georgia, in America." The charter conferred the usual powers of corporations in England, and authorized the trustees to hold any territories, etc., in America, for the better settling of a colony.

The charter further granted to the corporation seven undivided parts of all the territories lying in South Carolina south of the Savannah River, to be held as of the manor of Hampton Court, etc., in free and common *socage*, etc. It then erected all the territory into an independent province, by the name of *Georgia*. It authorized the trustees, for the term of twenty-one years, to make laws for the province, "not repugnant to the laws and statutes of England," subject to the approbation or disallowance of the Crown, and after such approbation to be valid. The affairs of the corporation were ordinarily to be managed by the common council. It was further declared that all persons born in the province should enjoy all the privileges and immunities of natural-born subjects in Great Britain. Liberty of conscience was allowed to all inhabitants in the worship of God, and a free exercise of religion to all persons except Papists. The corporation were also authorized, for the term of twenty-one years, to erect courts of judicature for all civil and criminal causes, and to appoint a governor,

judges, and other magistrates. The governor was to take an oath to observe all the acts of Parliament relating to trade and navigation, and to obey all royal instructions pursuant thereto. The governor of South Carolina was to have the chief command of the militia of the province; and goods were to be imported and exported without touching at any port in South Carolina. At the end of the twenty-one years, the Crown was to establish such form of government in the province, and such method of making laws therefor, as in its pleasure should be deemed meet, and all officers should be then appointed by the Crown.

Georgia continued to languish until at length the trustees, wearied with their own labors, and the complaints of the people, in June, 1751, surrendered the charter to the Crown. Henceforward it was governed as a royal province, enjoying the same liberties and immunities as other royal provinces; and in process of time it began to flourish, and at the period of the American Revolution it had attained considerable importance among the colonies.

Horace Greeley, in his *American Conflict*, thus describes Oglethorpe's prohibition of slavery and rum-drinking in his colony:

"One of the fundamental laws devised by Oglethorpe for the government of his colony was a prohibition of slaveholding; another was an interdiction of the sale or use of Rum—neither of them calculated to be popular with the jail-birds, idlers, and profligates, who eagerly sought escape from their debts and their miseries by becoming members of the new colony. The spectacle of men, no wiser nor better than themselves, living idly and luxuriously, just across the Savannah river, on the fruits of constrained and unpaid negro labor, doubtless inflamed their discontent and their hostility. As if to add to the governor's troubles, war

between Spain and England broke out in 1739, and Georgia, as the frontier colony, contiguous to the far older and stronger Spanish settlement of East Florida, was peculiarly exposed to its ravages. Oglethorpe, at the head of the South Carolina and Georgia militia, made an attempt on Saint Augustine, which miscarried; and this, in 1742, was retaliated by a much stronger Spanish expedition, which took Fort St. Simon, on the Altamaha, and might easily have subdued the whole colony, but it was alarmed and repelled by a stratagem of his conception. Oglethorpe soon after returned to England; the trustees finally surrendered their charter to the Crown; and in 1752 Georgia became a royal colony, whereby its inhabitants were enabled to gratify, without restraint, their longing for Slavery and Rum.

"The struggle of Oglethorpe in Georgia was aided by the presence, counsels, and active sympathy, of the famous John Wesley, the founder of Methodism, whose pungent description of Slavery as 'the sum of all villainies,' was based on personal observation and experience during his sojourn in these colonies."

CHAPTER II

PUBLIC LANDS

The Land Question in the Controversy over Colonial Rights—In the Confederation—Cession of State Lands to the Union—Organization of the Northwest Territory—Control of Congress over the Territories—System of Public Land Sales—Opposition of Senator Thomas H. Benton [Mo.]—Sketch of Benton—His Speech, “Free Land the Cure of Poverty”—Debate between Webster and Hayne on Revenue from Public Lands (Foot Resolution)—Representative Andrew Johnson [Tenn.] Proposes Homestead Bill—Debate on the Bill: in Favor, Mr. Johnson, John L. Dawson [Pa.], Galusha A. Grow [Pa.], Joseph R. Chandler [Pa.], Charles Skelton [N. J.], Joseph Cable [O.], and Cyrus L. Dunham [Ind.]; Opposed, Thomas J. D. Fuller [Me.] and Richard I. Bowie [Md.]—Sketches of Debaters—Bill Passed in 1862.

As we have seen, the land question was fundamental to the dispute between America and Great Britain over colonial rights, the Massachusetts House of Representatives in 1768 protesting against the Townshend taxes and their enforcing acts as violative of the original contract between the Crown and the settlers that “if these adventurers, at their own cost and the hazard of their lives would purchase a new world and thereby enlarge the King’s dominions,” they should enjoy all the rights of “His Majesty’s subjects within the realm” including freedom from taxation in which they had no voice.*

* Volume I., p. 59.

In order to bring the colonists to terms the British government restricted the right of the colonists to "the use of the earth" by prohibiting their fishing on the banks of Newfoundland.¹ It also made it difficult to procure grants of the crown lands; this Burke represented as a grievous invasion of the natural and divine right of man to "occupy and replenish the earth."² This action of the British government Thomas Jefferson made a chief reason for separation from the mother country, charging that the King had "endeavored to prevent the population of these States" by restricting the laws for naturalization, refusing to pass others to encourage migration hither, "*and raising the conditions of new appropriations of lands.*"

The Land Question in the Confederation. The land question played an even more important part in the Union of the States under the Articles of Confederation. As we have seen, it was by the advice of Dr. John Witherspoon that the value of landed property was adopted as a standard in apportioning the contributions of the States to the Federal treasury,³ and it was only through his error in not excluding therefrom the value of improvements (labor products) that assessment was made difficult, so that the standard was changed to population, with the result that, after a bitter sectional controversy over the counting of slaves, a compromise was reached by reckoning five slaves as three freemen, which method being also adopted in apportioning Representatives under the Constitution caused the recognition of slavery in our national charter, and so made its abolition a political issue requiring the arbitrament of war, instead of a

¹ See Volume I., p. 100.

² See Volume I., p. 169.

³ Volume I., p. 109.

merely economic one, capable of settlement by compensation. Pelatiah Webster in his *Dissertation on the Constitution* (1783), proposed the value of land alone as a natural and just standard of determining contributions to public revenue, in that this value was *created by population.*¹

The disposition of the vacant and unpatented western lands was also a leading subject of controversy in Congress during the deliberations over the Articles of Confederation. It was proposed in 1777 that Congress should fix the western bounds of each State, and lay out the lands beyond such bounds into new States. Maryland voted for this; New Jersey was divided on the proposition, and the other States were opposed to it. Maryland continued her contention in 1778, New Jersey, Rhode Island, Pennsylvania, and Delaware voting with her; Massachusetts, Connecticut, Virginia, South Carolina, and Georgia voting against the proposal, with New York divided, and North Carolina and New Hampshire, being unrepresented, not voting.

In 1779 the Articles of Confederation were ratified by all the States except Maryland, who insisted on an amendment thereto securing the western lands for the benefit of all the States in common. As we have seen,² New York, with claims to western lands bordering on Lake Erie, patriotically led the way to a complete federation of the States by empowering her delegates, in 1780, to permit Congress to fix her western boundary, and take over the lands thus excluded "for the use and benefit of the United States . . . and for no other use or purpose whatever." Congress recommended similar action to the other States with western lands,

¹ See Volume I., p. 191.

² Volume I., p. 176.

and, in compliance, Virginia, on January 2, 1781, agreed to cede to the United States all her claim to lands northwest of the Ohio. On March 1, Maryland ratified the Articles of Confederation, thus completing the Union.

The Northwest Territory. New York formally ceded the lands west of her present boundary to the United States in 1781. Virginia consummated her cession in 1784; Massachusetts ceded her claim to lands west of New York in 1785; Connecticut, her claim to lands in the same region in 1786. Virginia and Connecticut, however, reserved for special purposes, such as pensions to soldiers, certain lands, the former State retaining a considerable area in what is now southern Ohio, which was known as the Virginia Military District, and the latter State retaining 3,250,000 acres in northeastern Ohio known as the Western Reserve.

At the time of Virginia's cession (March 1, 1784), Thomas Jefferson, as chairman of a committee on organization of the territory, reported a temporary plan of government. Jefferson's scheme contemplated dividing the territory into nine States, Sylvania, Michigania, Chersonesus, Assenisipia, Mesopotamia, Illinoia, Washington, Polypotamia, and Pelisipia, bounded by parallels of latitude two degrees apart and two meridians of longitude drawn through the mouth of the Kanawha and the falls of the Ohio. The plan provided that the territory should have "a republican form of government" and that "neither slavery nor involuntary servitude except as a punishment for crime," should exist in these States after 1800. This proposition was negatived by seven States on April 23.

Finally, on July 13, 1787, while the Constitutional Convention was in session, Congress organized the

region into the "Northwest Territory." Nathan Dane^{*} was chairman of the committee that drafted the ordinance and he caused the insertion in it of Jefferson's provision of a "republican form of government," and his prohibition of slavery, making this, however, to take immediate effect.

The ordinance also contained a clause requiring the return of fugitive slaves. It provided for the future organization of not less than three nor more than five States from the Territory. Ohio, Indiana, Illinois, Michigan, and Wisconsin were subsequently formed therefrom. Previously to this a Territorial government was prescribed, to be formed when the Territory had five thousand free male adult inhabitants. It was to be governed by a Governor, with veto power, appointed by Congress; a legislative Council of five, selected by Congress from ten nominees of the popular House; and a House of Representatives elected by the inhabitants, one member to each five hundred of free male adults. When the House attained to twenty-five members it was to have the power to fix the future number and proportion. Property qualifications were prescribed for electors and legislators. The assembly (Council and House) were to elect a delegate to Congress, to speak on matters affecting the Territory, but not to vote. The assembly were prohibited from making laws repugnant to specified "republican" principles (which were shortly to be expressed in the Constitution and the first ten amendments thereto). The assembly were enjoined to encourage education, and keep faith with the Indians. They were not to interfere with the disposition of public lands by the United States, nor tax these, nor interfere with river navigation. Congress

* Nathan Dane (1752-1835) was an eminent jurist of Connecticut who had entered Congress in 1785. Later he became a strong opponent of the State Rights theory, being frequently referred to in this connection as an authority on constitutional law.

had power to transform the Territory into a State when the population reached sixty-thousand, or before this, if it saw fit. Before Territorial organization Congress was to govern, appointing a Governor, Secretary, judges, and militia generals, the Governor and judges to legislate subject to Congressional veto.

It has been claimed by some Southern constitutional lawyers that the "Ordinance of 1787" was *ultra vires* under the Articles of Confederation, the restriction of slavery being particularly so, and therefore void. In support of this contention they point to the fact that Congress under the Constitution thought it necessary to re-enact the Ordinance (on August 7, 1789), and they claim that even this exceeded the constitutional provisions for Territorial organization (Art. IV., § 3). However, the weight of opinion has supported the view that the Ordinance continued in force—a purely academic proposition now, since its principles have been made a part of the constitutions of the States formed from the Territory, but, during the contest over slavery, especially before all these constitutions were adopted, it was a most important question.

In October, 1787, General Arthur St. Clair, a veteran of the French and Revolutionary wars, was made Governor of the Territory, his seat of government being Marietta.

In August, 1787, South Carolina completed the transfer of western State lands to the United States government by ceding all her claims to territory west of the Appalachian divide. In the subsequent organization of the western lands of the South into Territories, after some controversy, the prohibition of slavery was not applied.

Control of Congress over United States Territory. The new Constitution provided, in Article IV., sections 3 and 4:

That new States may be admitted into the Union, provided that none was erected within the jurisdiction of another State, nor formed by the junction of two or more States or parts of States without the consent of the legislatures of such States; that Congress shall have power to dispose of and regulate the territory or other property of the United States; and that the United States shall guarantee to every State a republican form of government, protect each against invasion, and, on application of the legislature or the executive (when the legislature cannot be convened), against domestic violence.

Sale of Western Lands. The question of the method of disposing of the lands in the vast domain which had thus come into possession of the United States government was discussed at length. During the Constitutional Convention Dr. Benjamin Rush, of Philadelphia,¹ proposed that only one region at a time be thrown open for settlement, in order quickly to develop it into a State—a most unwise suggestion in that, if it had been adopted, it would not only have restricted the right of men to the use of the earth, but also have fomented bitter sectional strife, the natural method, which prevailed, being that emigrants from the original States should cross the mountains in the same latitude, carrying with them the customs and institutions prevailing in their old homes, and thus forming homogeneous communities. Thus New England immigrants largely settled the northern part of the Northwest Territory, and those from the Middle States

¹ See Volume I., p. 186, for a report of his speech in general.

and Virginia (many of the latter coming by way of Kentucky), the southern part, the restriction against slavery largely removing the opportunity for the display of sectional feeling except in the form of generous and healthful rivalry.

The plan adopted was to sell the lands at auction to the highest bidders, with an arbitrary minimum price. As lands were plentiful at the beginning, and the minimum price was low, the new country quickly filled with inhabitants. Within the next generation, however, the best lands east of the Mississippi were taken, and the late comers, as well as some of the older settlers of the pioneer instinct which impelled them ever westward, sought for homes in the Louisiana Purchase beyond the great river. But the minimum price fixed by government was too high for many of these emigrants, and the method of sale by auction encouraged speculators with capital to buy up the best lands (easily "carried" because of low taxation) and hold them until the increasing demand enabled the monopolists to dispose of them in private sale at great profit. Accordingly there arose in the trans-Mississippi region a great outcry for a change in the method of disposing of public lands in order to encourage sale of land to actual and immediate users. The complaint was most vociferous in Missouri, whither after the close of the Second War with Great Britain there was a great influx of immigrants, causing wild speculation in land, with its inevitable accompaniment, inflation of the currency, the Bank of St. Louis being established in 1816 with power to issue bank-notes. At the beginning of the war, the Territory had a population of twenty thousand; by the time of its admission into the Union (in 1821), it had sixty-six thousand inhabitants, ten thousand of

whom were slaves. The great demand for land caused the rapid extinguishment of Indian titles, but this only temporarily stayed the earth hunger owing to the rapid monopolization by the speculators of the rich regions thus opened to purchase.

Accordingly, when Thomas H. Benton, in the prime of life (he was thirty-nine years old), entered the Senate in 1821 as one of the two representatives of the new State in that body, he applied himself to the reform of the public-land policy of the government.

Sketch of Benton. Thomas Hart Benton, a native of North Carolina, early lost his father, and so had to struggle for an education, managing, however, to attend a grammar school, and to take a short course at the State University. He left this institution to go with his mother and family, of which he was the eldest child, to Tennessee, and occupy a large tract of land, south of Nashville, which had been acquired by his father. Other settlers soon came, and the village of Bentonville was established on the tract. Thomas studied law, and was admitted to the bar in Nashville in 1811. Andrew Jackson, then a judge of the Supreme Court of the State, became his patron and friend. In the War of 1812 Benton served on Jackson's staff, and also raised a regiment of volunteers, of which he became the colonel. On Thomas's taking the part of his brother Jesse in a quarrel with Jackson in 1813, the general attempted to horsewhip the Bentons, with the result that he received a pistol-ball in his shoulder. For many years thereafter Colonel Benton was a bitter opponent of his former patron. In 1813, President Madison appointed Benton a lieutenant-colonel in the regular army, to serve in Canada. Peace was declared, however, before he became engaged in hostilities, and

he resigned his commission and returned to Nashville. In 1815, he removed to St. Louis and set up law-practice. He also established a newspaper, the *Missouri Inquirer*, his bellicose conduct of which involved him in several duels, one of which proved fatal to his opponent. This sad event he greatly regretted, destroying all the correspondence which had led to the encounter.

The *Inquirer* contended vigorously for the admission of Missouri into the Union as a slave State, and, even before this was accomplished, he was rewarded by election, in 1820, to the Senate. He spent the time before the State's admission in 1821 in the study of Spanish, a desirable accomplishment in view of the legal questions connected with the Louisiana Purchase out of which Missouri was formed.

In 1824, 1826, and 1828 he introduced in the Senate bills for the reform of the grants of public lands.

These advocated: (1) a preëmption right to actual settlers; (2) a periodic reduction according to the time the land had been in the market, in order to make the prices correspond with the quality; and (3) the donation of homesteads to poor but industrious people on condition that they would improve the land, and cultivate it for a given number of years.

Although his proposition was generally ignored by the Senate, who had come to look on the public lands merely as a source of national revenue, he so educated the people of the country in the view that the primary purpose of the national domain was to furnish homes for the people, that in response to public sentiment President Jackson (with whom he had become thoroughly reconciled) indorsed his ideas in his annual message of December 4, 1832, and repeated the recom-

mendation in that of December 7, 1835,¹ with the result that Congress enacted a law recognizing the preëmption rights of so-called "squatters" upon the public lands.

Free Land the Cure of Poverty. On April 28, 1828, Senator Benton spoke as follows:

"I know it to be written in that book which is the epitome of all knowledge, 'that the rich ruleth the poor, and the borrower is the servant of the lender.' I know, too, that it is said by my venerable and venerated friend from North Carolina² that governments are not made for the poor, but against them; that the rich get the benefits and the poor get the burdens of government; and I know that this severe remark has much foundation in the history of mankind, yet it has not always been so."

Here the Senator instanced the contest in ancient Rome between the Patricians and the Plebeians, which resulted in half of all conquered lands being gratuitously distributed among the common people, and half being sold for the public treasury; and occasional donations of other public lands being made, in some cases to as many as twenty thousand poor families at a time. He

¹ See *Messages and Papers of the Presidents*, by James D. Richardson, vol. ii., p. 601; vol. iii., p. 162.

² Senator Nathaniel Macon, who was then seventy-one years of age. Macon was a soldier of the Revolution, and had served in the House of Representatives from 1791 to 1815, being Speaker from 1801 to 1807. He ably supported Gallatin and Livingston in their opposition to the Alien and Sedition laws in 1798, although he did not deserve the pre-eminence in these debates given him by Benton in his *Abridgment of the Debates in Congress*, which extensively reported Macon's speeches, while it reduced to commonplace paragraphs Gallatin's keen arguments, and entirely omitted Livingston's profound constitutional discussion. In 1815 Macon was advanced to the Senate, where he remained until 1828, one of its most honored members. He died in 1837.

also cited the Licinian Rogations (laws), which secured such possessions for hundreds of years, and for the enforcement of which the Gracchi lost their lives.

"It was this interest in the soil of their country which made the love of that country so strong a passion in the breast of the Roman citizen. It was this which made every Roman glory in the name, and hold himself forever ready to fight and die for his country.

"And cannot the same cause produce the same effect with us? Congress is charged with providing for 'the common defense' of the nation, and she expends millions upon the fortifications of the seacoast, and upon the equipment of ships for the sea. And may she not give land for the defense of the western frontier?"

On this point the speaker referred to the inducements the British government was holding out at great expense in order to settle the Crown lands of Canada:

"One hundred and fifty acres to each emigrant—expenses of removal—provisions for one year—seed grains for the first crop—farming tools, household utensils, and a cow."

This, said Benton, was all for national defense—the protection of the western frontier of the British Empire. Should we not do the same, and for a similar reason?

"The defense furnished by patriotism . . . has been called 'the cheap defense of nations.' . . . Of this it is in the power of this government to avail itself to any degree. It may have as many warriors as it pleases on its frontier. It has hundreds of millions of acres of vacant land in the frontier States and Territories, and some hundred thousand citizens [throughout the Union] without freeholds. Let it

give them land; let it give them an interest in the country; a home for their wives and their little ones; and they will never be found without a horse and a rifle; without a willing mind, a courageous heart, and a strong arm, when that country demands their service."

The Senator, who had experienced in youth the hardships of poverty, indignantly repudiated that this condition was always the effect of vice or laziness.

"Many are born poor, and remain so; many are born rich, and become poor through misfortune; and to all the change of condition from tenant to freeholder is the most difficult part of their lives."

He therefore proposed that the government should make this change easy, especially as it would vastly strengthen itself thereby.

"Great and meritorious are the services of the poor. They are soldiers in time of war, and cultivators both in war and peace. . . . Daily do they moisten the earth with the sweat of their brow. Shall that sweat continue to fall upon ground which is not their own? Shall they remain without land under a government abounding with land? Shall they be compelled to choose between the hard alternatives of being trespassers or tenants all their lives? Shall they see forever this Federal government, after constituting itself sole purchaser of land from Indians, resolve itself into the hard character of speculator and monopolizer, and make 'merchandise' out of God's first and greatest gift to man?"

Debate on the Foot Resolution. Benton was one of the leading speakers on the resolution presented in the

N. P. Willis, in one of his *Hurry-Graphs* (sketches of prominent men) wrote in 1851 of Benton:

"Benton is a caricature likeness of Louis Philippe—the same rotundity, the same pear-shaped head, and about the same stature. . . . His lower features are drilled into imperturbable suavity, while the eye, that undrillable tale-teller, twinkles of inward slyness as a burning lamp-wick does of oil. He is a laborious builder-up of himself—acting by syllogistic forecast, never by impulse. He is pompously polite, and never abroad without 'Executive' manners. He has made up his mind that oratory, if not a national weakness, is an un-Presidential accomplishment, and he delivers himself in the Senate with a subdued voice, like a judge deciding upon a cause which the other Senators had only argued. He wears an ample blue cloak, and a broad-brimmed hat with a high crown, and lives, moves, and has his being in a faith in himself which will remove mountains of credulity."

Said George W. Julian, in his *Political Recollections* (1883):

"Benton was not only a man of tremendous passions, but unrivalled as a hater. Nor did his hatred spend itself entirely upon injustice and meanness. It was largely personal and unreasoning. He was preëminently unforgiving."

Ben: Perley Poore, in his *Reminiscences of Sixty Years in the National Metropolis* (1886), said:

"When in debate, outraging every customary propriety of language, he would rush forward with blind fury upon every obstacle, like the huge, wild buffaloes then ranging the prairies of his adopted State. . . . He was not a popular speaker, and when he took the floor occupants of the galleries invariably began to leave, while many Senators devoted themselves to their correspondence."

Noah Brooks, in his *Statesmen, Men of Achievement* (1893), said:

"Benton was not a great orator . . . but a powerful pleader and an indomitable spirit, and his nature was cast in a heroic mould. . . . He affected classic allusion. . . . Like others of his time he drew copiously from Roman and Greek history . . . the Trojan war was made use of by illustrating his fight against the salt tax."

Benton gradually became more interested in finance than the land question, and it remained for others to take up his fight to secure "land for the people," especially in the form of his proposition to give them free homesteads, and to push it to a successful conclusion. The leader in this contest was Andrew Johnson, of Tennessee.

Sketch of Johnson. Johnson was born in Raleigh, N. C. Orphaned of his father at the age of four, he lived in such poverty that he did not learn to read till he was ten years old, when, as a tailor's apprentice, he was taught the alphabet by his fellow workmen, and, borrowing a book, *The American Speaker*, mastered its contents without further aid. At the age of eighteen he removed with his mother and step-father to Greenville, Tenn. Here he married a woman of refinement who taught him to write. Tennessee was then under the control of landlords, whose interests were conserved by the constitution of the State, and Johnson made himself the leader of the opposition to their rule in his town, being elected alderman for three successive terms, and finally becoming mayor for as many more. Joining a debating society at the local college he developed his powers of argument so well that he took effective part in 1834 in securing a new constitution for the State in

which the power of the landlords was greatly abridged. In 1835, he was sent to the legislature, where he unsuccessfully opposed the prevalent mania existing at the time in all the western States for extravagant internal improvements.^x This opposition caused his defeat at the next election, but the reaction which soon set in against internal improvements justified his foresight and restored his popularity, and he was returned in 1839. Although a warm supporter of John Bell against James K. Polk in the Democratic factional fight for supremacy in Tennessee, he did not go over to the Whigs as did the rest of his faction when Bell was defeated, but remained loyal to Democratic principles. In 1840, he supported Van Buren for President, acquiring a State-wide reputation as a campaign orator. In 1841, he was elected to the State senate where he unsuccessfully contended for basing representation on white votes regardless of ownership of slaves. In 1843 he was elected to Congress. He supported the annexation of Texas, and, being reelected in 1845, sustained the administration of Polk, opposed all but general expenditures for internal improvements, and by his strenuous protest defeated a tax on tea and coffee. He remained in Congress until 1853, when his district was made hopelessly Whig by a "gerrymander," and he ran for Governor, winning the election. He was reelected in 1855. During his terms of office he advocated homestead legislation, which he had moved in Congress, and other measures for the benefit of the

^x Abraham Lincoln, a legislator in Illinois at this period, was a leader in such a movement, and afterwards bitterly repented his part in involving the State in a heavy debt, expended on surveys of roads which were never built, and on the construction of canals which were never completed.

workingmen, earning thereby the title of the "Mechanic Governor." In 1857, he was sent to the Senate, where he pressed the homestead law, making his greatest speech on the subject on May 28, 1858. He was prominent in debate on other subjects, frequently crossing swords with the statesmen of his own section of the country on secession, which now began to be threatened. An ardent Union man on the one side, and an upholder of the constitutionality of slavery on the other, caused the suggestion to be made in 1860 of his availability as a Democratic candidate for President who would unite the northern and southern wings of the party, but in the Charleston convention he received only the votes of Tennessee. In the canvass that followed he supported Breckinridge, refusing to believe that secession was more than a threat. However, when South Carolina voted itself out of the Union, he came back to the next session of the Senate as an earnest supporter of Lincoln in his efforts to maintain the integrity of the Republic. Indeed, he was an extremist, demanding condign punishment for the "traitors," on which account he was mobbed on his return to Tennessee, and burned in effigy. He was appointed military governor of Tennessee in 1862, and organized at Nashville a provisional Union government for the State. In face of tremendous opposition he raised twenty-five Union regiments, held Nashville against the Confederates, built a railroad from that capital to the Tennessee river for the use of Union troops, organized and attended Union meetings throughout the State, taxed the rich, who were secessionists, to support the families of poor men conscripted by the Confederacy, and prevented the collection of taxes by the Confederate government of the State, by these and other auto-

cratic acts rendering incalculable service to the Union cause. Accordingly, when it was determined in 1864 to reelect Lincoln on a Union, and not Republican, ticket, Johnson was the logical nominee for his running mate. The career of Johnson from this point on is too well known to require repetition here.

The Homestead Law. During the session of 1849-50 Representative Johnson introduced in the House a bill to grant to every head of a family a homestead of 160 acres out of the public domain, conditioned only on its occupancy and cultivation. It was referred to the Committee on Agriculture, who reported it to the House, whereupon it was referred to the Committee of the Whole, where, said one of the later speakers on the bill—Joseph Cable [O.]—“it took the infidel's eternal sleep.” Mr. Johnson brought it up again in 1850-51, when it was again smothered. Finally, on March 3, 1852, he succeeded in getting it before the House, where it remained the chief subject of discussion throughout the remainder of the session. Owing to the rising question of slavery in the Territories, the Southern Representatives were in general opposed to a measure which would fill these regions with a free population of laboring men, inflexibly antagonistic through self-interest to slave labor, as was already seen in the unanimous determination of California immigrants, many of whom were slaveless laborers from the South, that the “Golden State” should remain forever rid of the iron shackles of bondmen. A few New England men, with a remainder of the old spirit of Federalism, antipathetic to the preponderance of the West in political power, and regarding, with Webster, the public lands chiefly as a source of national revenue, joined with the Southern statesmen in opposing the measure. A typical Southern

opponent was Richard I. Bowie, of Maryland; a typical New England one was Thomas J. D. Fuller, of Maine. Leading supporters of Mr. Johnson were John L. Dawson, Galusha A. Grow, and Joseph R. Chandler, all of Pennsylvania; Charles Skelton, of New Jersey; Joseph Cable, of Ohio, and Cyrus L. Dunham, of Indiana.

Sketches of Debaters. Bowie belonged to an aristocratic Maryland family which upheld slavery and State rights as maintaining the privileges of their caste. He was a lawyer, who served in Congress from 1849 to 1853. Fuller was also a lawyer. His term in Congress extended from 1849 to 1857. Dawson, admitted to the bar in 1835, was a member of Congress from 1851 to 1855, and from 1863 to 1867, being an anti-slavery man in the first term, and a Republican radical in the second period.

Galusha Aaron Grow, a more eminent man of the same political school, was born in Connecticut in 1824; he removed to Pennsylvania in 1834; and was admitted to the bar in 1847, soon after this establishing practice at Towanda as the partner of David Wilmot, the author of the Wilmot Proviso excluding slavery from the Territories. Like Wilmot he was a Democrat in politics. Ill health compelled him, in 1850, to give up the law for outdoor employment, and he engaged in farming, surveying, and lumbering. In the same year, he was nominated for Congress by his party as a compromise candidate, the convention being at deadlock between Wilmot and a pro-slavery Democrat. He was elected over his Whig opponent, and took his seat at the age of twenty-seven as the youngest member of Congress. He represented the "Wilmot district" until 1863, being Speaker of the House the last two years. In 1854, on the repeal of the Missouri Compromise, he

became a Republican, and was one of the strongest supporters of the policies of that party. For six years, four of which he was chairman, he served on the Committee on Territories, playing an important part in the struggle which ended with the admission of Kansas as a free State. Upon the retirement in 1853 of Andrew Johnson from the House, he took the lead in advocating the Homestead law, which he continually kept before the House until he had the satisfaction of signing the act as Speaker.

Retiring from Congress in 1863 with a unanimous vote of thanks for the conduct of his office, he devoted himself for a time to Republican politics in his State and then, his health having been impaired by accidental poisoning, he traveled in the West to recover it. He was president of a Texas railroad from 1871 to 1875, when he returned to Pennsylvania, and took active part in the State election of that year and the presidential campaign of 1876. He declined the mission to Russia offered by President Hayes. In his old age he reentered Congress, serving from 1893 to his death, at the age of eighty-three, in 1907.

Joseph Ripley Chandler was born sixty years before the debate in Massachusetts. He began his career as a clerk in a store, but soon fitted himself by evening study to teach school. At the age of twenty-three, while engaged in this employment, he married a fellow teacher and they removed to Philadelphia and established a private school. In 1822 he took hold of a dying paper, the *United States Gazette*, and, putting it in a flourishing condition, gave up teaching in 1826 to conduct it exclusively. It became a leading Whig paper, and Mr. Chandler was drawn into city and State politics. The *Gazette* was merged into the *North American* in 1847,

and Chandler gave up connection with it to devote himself to politics. He was elected to Congress the next year, and served from 1849 to 1855. He then went abroad as minister to the two Sicilies. On the expulsion of the Bourbons in 1860 he returned to Philadelphia. He was a man of strong humanitarian impulses, taking special interest in prison reform, on which he published many pamphlets. He was also the author of educational treatises. He died at the age of eighty-eight in 1880.

Skelton was also an educator, having been the superintendent of public schools at Trenton. He was a self-made man, having been a mechanic in early manhood. He was a member of Congress from 1851 to 1855.^x Cable of Ohio was an Irish-American of little education but of much originality of thought—a typical representative of the farming class which formed his constituency. He was a member of Congress from 1849 to 1853. Dunham, a sound lawyer from the neighboring agricultural State of Indiana, expressed the same spirit as Cable, but with more logical force if less rhetorical vehemence. His service in Congress extended from 1849 to 1855.

Mr. Dawson opened the debate in logical fashion by presenting statistics showing that, at the existing rate of disposition of the public lands, it would take nine hundred years to get them into the hands of the people.

^x It is a notable fact that educators, comparatively few as these have been in Congress, made themselves prominent in advocacy of humanitarian and progressive measures. Thus Horace Mann, who succeeded to John Quincy Adams's seat in Congress in 1848, and served until 1853, by probably the most comprehensive speech ever made in that body on slavery, immediately made himself a leader of the advanced anti-slavery party in the House, demanding that the Wilmot Proviso be enforced even though it drove the South into secession.

It would be justice to the new States, he said, to convert the public lands within their borders into private property, and, by thus subjecting them to taxation, give sorely needed revenue to the young commonwealths.

Referring to the preēmption system that had been adopted in Jackson's administration, he spoke of the stimulation it had given to emigration and settlement, but said that this had passed, and the lands, because of inability of the squatters to pay for them in the time set by the government, had fallen into the clutch of the speculator, the hardy pioneer being driven again into the wilderness.

Certainty and *reliability* were necessary elements in a land system. If these were assured, the heart of many an honest poor man would be nerved to secure a *home*, even on the confines of civilization. What a spectacle would America, thus filled with happy and united freeholders, present to Europe as an evidence of the success of republican institutions! The patriot might then exclaim, as Lycurgus did when returning through the common lands which he had opened to the Spartans, and beholding the shocks of grain in even rows: "How like is Laconia to an estate newly divided among many brothers!"

Mr. Cable ascribed to *monopoly of the soil* the chief evils that affect the world: war, oppression, poverty, vice, and crime, and pointed to the unhappy condition of Ireland as proof of his claim.

"The fee simple of the 'Green Isle' is held by perhaps less than thirty thousand persons who abstract from labor its whole reward, except so much only as . . . necessary to keep the laborer's 'body and soul together.' . . . The identical year^x in which we were sending over our vessels

^x The potato famine in Ireland lasted from 1845 to 1847.

loaded with the necessities of life . . . there were raised in Ireland and shipped to the landlords in England (the seat of the worst government because of its power to do more evil than any other on earth) *one million's* worth of . . . provisions. Thus did the monopolist of the soil in Ireland abstract from the then eight (now six)¹ millions of Irish people so much of the reward of their labor as to leave in that year *one half million* . . . the victims of disease and awful famine. . . .

"Had the boundaries of our own beloved country been confined to . . . the original thirteen States, this people, too, would have been, ere this, trodden down by the iron heel of usurpation. . . . The Shylocks—bankers with their paper issues, stock-jobbers, speculators, with their auxiliaries—would have monopolized the entire soil of this country long ago, and put the people under contributions. But . . . our widely extended domain has thrown an insurmountable barrier in the way."

Mr. Cable then opposed the theory of government sovereignty over land, claiming that the title rested with the people, the source of sovereignty, and not with their agent.

"Congress has the disposition thereof in trust. . . . The fee simple is in *man*, not of this nor the other generation, but of the whole people in all time to come."

Mr. Cable then cited the story of the creation of man in *Genesis* to uphold his contention. He showed that man was an animal requiring access to natural opportunities to exist, and therefore with an inalienable right to land. On this right were based all other natural rights. A government which denied this right was therefore guilty of usurpation, fraud, and hypocrisy, and would ultimately be replaced by a righteous one.

¹ More than a million Irishmen had emigrated to America by 1848.

"Moses prophetically declares that 'the land shall not always be sold'; and this prophecy will be fulfilled on this continent sooner or later."

The speaker justified the Fathers in selling the public domain for profit, since the government was poor and the national debt was heavy. But the last dollar of the debt was paid off under Jackson.

"The whole system should then have been changed, as the patriot Jackson recommended. But no!—the demon [of land monopoly] held dominion in these halls to stifle justice and insult humanity."

Mr. Cable then applied the Jeffersonian philosophy of natural right to the subject.

Free government, that by "consent of the governed," could not be enjoyed by people dependent on landlords. Every political right is based on a natural right. If you destroy man's natural, inalienable right to the soil, you also destroy the virtue and stability of land titles arising therefrom."

He attacked the theory of opponents of the bill that the government was something apart from the people, and therefore that, if the people did not pay for the public lands, the government was defrauded.

"Such statesmen . . . remind me of Milton's fallen angels, fighting against the power that made them all they were while in a state of innocence and virtue."

He spoke at length of the benefits of the measure:

It would lift the tenant farmer into a freeholder. The former now realizes only one fourth of what he earns, half

going to the landlord, and a quarter in the way of taxes, tariffs, etc.

It would relieve the congestion of cities, where men, women, and children are huddled together in poverty, disease, vice, and crime.

It would add millions of acres to the tax list, and so replenish the empty treasuries of States and Territories.

It would increase the demand for manufactures of all sorts. It would be the true encouragement of industry. "While other classes are invoking the power of this government to enable them, under protective tariffs, to abstract still more and more of the reward of labor, the mechanics and farmers ask you only to remove your clogs which hang upon their rights like an incubus."

Mr. Fuller regarded the measure as *unconstitutional*, and *unjust*.

"I deny that this government holds the public domain by such a tenure that it is susceptible of such severance and partition." It is inequitable that to one part of the people should be set off the common property of the whole.

He declared that the homestead law of Canada was a failure. He had visited that country and observed its results.

"The settlement upon which the government bestowed its patronage appeared to be struck with blight . . . compared with other settlements whose inhabitants relied upon their own unaided energies. The idea is erroneous, proceeding from the false notion that a government, by any system of bounties, can build up a substantial and independent yeomanry."

On this point he quoted Lord Durham's praise of our public land system in disparagement of the Canadian.

The system is *uniform* throughout the vast confederation; it is *unchangeable* save by Congress; it renders acquisition of new land *easy*, and yet, by means of a price, restricts appropriations to the *actual wants* of the settlers; it provides for accurate *surveys*; it gives an instant and secure *title*; and it is *impartial*. It has promoted an amount of immigration and settlement unexampled in history, and produced an annual revenue of £4,000,000, or more than the whole expenditure of the government.

The speaker declared that the bill violated the understanding upon which the seven original States ceded western lands to the United States.

This was that each State in the Union should share in the common fund arising from sale of the lands "according to the respective and usual proportion in the general charge and expenditure" [of government], and that the funds should be used "for no other purpose whatsoever."

The lands acquired by treaty with foreign powers, he claimed, were similarly protected.

The common money of the Union was spent for them. Nothing, therefore, could be done with them that could not have been done with the money, and this must be according to the constitutional proportion.

The States, he said, had no superior claim upon the public lands within their borders, any more than upon Federal forts, custom houses, etc., similarly situated.

The present system was hard enough upon the old States in depleting them of the hardest class of their population, the men of pioneer spirit, yet he did not deplore the emigration it caused. Let prosperity attend the stalwart sons of Maine marching away to the piny forests of the Northwest or the Pacific shore. "Happy is that State or Territory which shall receive them, for, like the renowned men of the

olden time, 'they are famous for lifting up the axes upon the thick trees.'

"Our present land system acts like a great balance wheel upon our political institutions. It regulates the value of real property; it controls the wages of labor—one day's work purchasing an acre of ground. . . .

"Offering extraordinary inducements for settlement will not increase the number of good and reliable settlers. Such settlers multiply only by time and the natural course of events. I trust, sir, that our public domain may be held [as at present], and that our children, and our children's children, may always have the privilege of resorting to it for settlement and support, at an unvarying price, and with certainty of title, until the almost countless acres . . . shall be covered with a virtuous, industrious, and happy people."

Mr. Skelton advocated the bill as a relief to the starvation wages paid laborers in the settled States, because of their underbidding each other for the jobs that are too few to go round.

"By throwing open these public lands you not only fertilize and improve the West, but you relieve us of the Eastern States of an evil that is pressing us into the ground. How can a man getting fifty cents a day support a wife and family and pay a heavy rent? And yet that is the pay that many of the laboring men get in my part of the country. Is it possible for such a man ever to acquire sufficient funds to purchase a farm in the West and take his family out there?"

[When a man is compelled to work sixteen hours a day for a mere pittance, how can he pay any attention to the culture of his mind? How can he educate his children? Is it not best that we throw open this great West to our citizens, and place the means in their power to educate their children, rather than to force them into the dark and illy ventilated

workshops of our crowded cities?—for thither even the farmer's boys must go when by subdivision due to increase of our agricultural population the farms become too small to support them. This is a question which involves not only the wealth and happiness of the nation, but the physical and moral health of the rising generation. Talk about dollars and cents! Let us take care of the human energy of our country. . . . Why, I saw a statement not long since that twenty thousand women in New York were earning their living by their needles—toiling on, day after day, for a quarter of a dollar *per diem*.

A MEMBER. Why not give the land to them?

MR. SKELTON. Had we given the land to their fathers and grandfathers they would not be found there.

The speaker then answered Mr. Fuller's objection to the bill as an inequitable use of property common to all the people by saying that the 160 acres proposed to be given to each settler was much less than his *per capita* share of the public domain, and therefore did not impair the right of any citizen who did not take up land.

He asked the gentleman from Maine if the homesteader, who had to fell the forest, build his home, and break the virgin soil would not have to rely as fully on his energies as the man who bought his farm. He, too, believed in independence, and therefore supported the bill, for what chance had an eastern workingman to be self-reliant? He himself for three months had walked the streets of Philadelphia as a mechanic seeking vainly a job. Depend on your own resources? Sir, the only resource to the eastern laborer is beggary, theft, or starvation.

Mr. Skelton then replied to the argument that revenue from the lands was needed to promote the commerce of the nation.

If we have no industry, what will be our commerce? The agricultural and manufacturing arts come before exchange of their products. What are we doing for commerce? We spend on our navy some seven or eight millions annually. What are we spending on agriculture? Not one cent. Yet honorable gentlemen want not only the revenues from imported goods to be devoted to the promotion of commerce, but also those from the public lands. I ask them in the name of common sense if commerce is not already sufficiently patronized.

Let us turn our attention to production, and trade will take care of itself.

Mr. Dunham spoke on the central theme of bringing idle men to idle land and so creating national prosperity.

"But you will not allow your citizens to toil to add to your wealth, your power, and your greatness, unless they pay you tribute. . . . You are like the miser, who, if he cannot get ten per cent. for his money, hoards it up, when he could have safely invested it at a smaller per cent. to the benefit alike of himself and his fellow men. . . . There is little difference between hoarding money and hoarding land."

He denied the charge that the measure would benefit new States at the expense of the old, by showing that, as in lowering the tariff, the act would add to the common welfare of all parts of the country and of every productive class in it.

Place the idle man on one of the idle farms of the West. He sends his produce to market, and receives its return in products of the factory, thereby aiding the manufacturing and trading interests. "It is like the circling wave which spreads broader and broader till it loses itself on the distant shore."

MR. FULLER. If our population should remove to the West, where will the growers of the West find a market?

MR. DUNHAM. That objection ought to come from Western men. Yet we do not fear the competition of New Englanders coming among us, but rather welcome them. If they are benefited, why does a New England statesman object? Besides, New England, with the development of manufacturing due to the free-land policy, will fill up with factory workers from other countries.¹

The speaker then showed that what was lost to the Treasury in land revenue was more than made up in additions to revenue from goods imported by the prosperous settlers. He then replied to the objection that lands would be granted on the same free terms made to American citizens, to foreign immigrants, who were revolutionary in their opinions, and so would disturb our politics.²

"I know something of the Germans and Irish who come to settle upon our shores. There is not a better, a more industrious, nor a more loyal population anywhere. They may come here with a little exuberance of republicanism, having just escaped from the shackles of tyranny which have fettered their spirits and restrained their energies; but give them land to cultivate, and labor will soon sober down their judgments, and teach them the important lesson that that only is true liberty which is regulated by law."³

I cannot, Mr. Chairman, abide the narrow-minded, cold-hearted policy which wraps itself in the cloak of its own selfishness, and says, It is well with me, let others take care of themselves. Nor can I appreciate this vaunting philan-

¹ A prophecy whose fulfilment proves the prescience of the speaker.

² A great number of German and Irish had fled to America since 1848, the Year of Revolution in Europe.

³ Another prediction which has been remarkably fulfilled.

thropy which talks of going forth to right the wrongs of other lands,¹ yet would refuse a home to the oppressed in our own; would refuse to allow them to occupy what we cannot use or enjoy; and especially when by doing so they add to our wealth and greatness, and help us to bear our burdens.

I am sometimes reproached for my refusal to vote for appropriations for magnificent public buildings. . . . It is said that we must, like the nations of Europe, have these, together with a magnificent army and magnificent navy. Sir, we can never rival Europe in matters of this kind, nor do I desire that we should.

It is not these which strike the attention of the European traveler when he visits our shores . . . but it is the little homes scattered all over the land, each belonging, not to some mercenary landlord, but to the dweller, and therefore improved and beautified by his own honest industry.

The government derives every dollar of its revenue from the people. It can, therefore, *give* them nothing. Is it right to withhold from them access to their basic property, mother earth?

I have often admired that lofty expression of the great Tecumseh—for he was one of Nature's great men, uttering her voice—who, when General Harrison, negotiating a treaty with him, ordered a chair to be brought for the chief, and said that “his father” desired him to take a seat, drew himself up, as only can he who feels the dignity of man, and replied: “My father?—The Great Spirit is *my* father; the Earth is my mother, and upon her bosom will I repose”; then he reclined upon the ground that is the common mother of us all.

Mr. Grow began his speech in the same philosophical vein.

¹ Intervention in behalf of Hungarian and Irish patriots was a question of the hour. See *Great Debates in American History*, vol. ii., chap. x.

Man being a land animal, every person has a natural right to as much land as is necessary for his support. Land, therefore, is not property in the sense in which are the products of labor applied to land. For the only true foundation of any right to property is man's labor. What right, therefore, has one man more than another to land to which not an hour's labor has been applied?

Blackstone in his *Commentaries* said that "there is no foundation in nature or natural law why a set of words upon parchment should convey the dominion of land." Use and occupancy alone give to man "an exclusive right to retain, in a permanent manner, that specific land which before belonged generally to everybody, but particularly to nobody."

It is said, "True, such was man's right in a state of nature, but when he entered into society, he gave up part of his natural rights to enjoy the advantages of an organized community." This I deny. It is a doctrine of despotism. It was not necessary that any of man's natural rights should be yielded to the state in the formation of society. All he needed to yield was the manner of the exercise of these rights. When government encroaches on the rights themselves, then men may rightly appeal from human to divine law, and rise and abolish the government. That government alone is just which defends all of man's natural rights, and protects him against the wrongs of his fellow man.

Mr. Grow here gave a disquisition upon the origin and nature of the claim of Eminent Domain by government.

This had its origin in the maxim that whatever was capable of ownership must have a legal and determinate owner. Therefore the title of land not appropriated by individuals was vested in the king as the head of the state. It is not necessary to speak here of all the wrongs inflicted

on man under this monarchical doctrine. The claim of the United States government to land is based on the right of discovery by the European nations from whom it has derived title. It might be proper that a nation which has sent forth a fleet and discovered land should have jurisdiction of the *laws* of the community settling the territory, but how can it acquire the right of proprietorship which individuals cannot acquire by the same process?

Why has this claim to monopolize any of the gifts of God to man been confined, by legal codes, to the soil alone? It is because it originated in feudalism, which regarded man as an appendage to the soil, whose labors were but the means of increasing the pleasures of his liege lord. This regard, having found a place in the books, has been retained by the reverence men pay to custom and precedent. It is twin to the acceptance of the doctrine of the divine right of kings, an equal source of violence and wrong. It is time we wiped out from our statute books the lingering relics of feudalism, ingrafted by the narrow policy of olden times, and adapted the legislation of the country to the spirit of the age—the true ideas of man's relations to the state.

The present antiquated land policy has opened the door to the wildest monopoly—one of the deadliest curses that ever paralyzed the energies of a nation or palsied the arm of industry.

Here the speaker cited the effect of land monopoly in England where men were dying for want of land to till beside vast manors hedged in as sporting grounds for the nobility.

Thirty thousand men hold the title deeds to the soil of Great Britain, and two and a half million Irish tenants pay annually \$20,000,000. to absentee landlords for the privilege of dying on their soil.

Our system is subject to like evils, though not as yet of the same magnitude. Let the public domain, therefore,

before it is too late, be set apart as the patrimony of labor to prevent its absorption by capital which would transform the blessing of the race into its curse.

The speaker then discoursed on the inability of man to mount to intellectual and spiritual heights without free land from which to spring.

"In vain you entreat him to cultivate the mind and purify the heart whose days are dragged out in procuring a morsel to sustain life, and whose last prayer, as he falls broken-hearted into his kennel of straw, is that he may never behold the light of another day."

Mr. Grow concluded his speech with an eloquent tribute to the pioneers, the unknown and unrecognized heroes who, as truly as did the soldiers, who received free land grants, and certainly more than the capitalists, whose interests were fostered by the tariff, deserved the bounty of the nation.

"While the shield of this government is thrown over [these] . . . interests, withhold not justice from the men who go forth single-handed to subdue the forest, tame the savage and the wild beast, and prepare in the wilderness a home for science and a pathway for civilization."

Mr. Bowie opposed the bill as based on a new principle subversive of national interests.

The lands should remain as a basis for public credit by supplying a sinking fund to extinguish the national debt, and for national union by affording donations to railroads which would bind together the country.

The general government cannot act constitutionally as a grand almoner. Each State, each county, and each city must alleviate the sufferings of its poor.

This bill is a direct appeal to the venality of voters. It constitutes a privileged class of pensioners of the national government. It is but a repetition of the agrarian laws of the Gracchi, which led to the decay of the Roman Republic and the establishment of the most odious despotism.

Mr. Chandler here denied the statement of the speaker.

Sir, let me say that this cry of “agrarian laws” and of the Gracchi is inapposite. By agrarian laws is understood a legislative attempt forcibly to equalize the possession of lands. No such attempt is made in this bill—none was made by the Gracchi, at whose time every Roman citizen might occupy as much land as he paid for, and three hundred and thirty-three acres beside, if he paid the small rent thereon. To this Tiberius Gracchus limited the operation of his law, and Caius Gracchus undertook only to divide the *public* lands among the soldiers and others who had aided to conquer them—bounty lands, sir, which the aristocrats were laying their hands on, to any amount they could purchase for their foreign slaves to cultivate. Does my honored friend think that Rome owed her decline and fall to the attempt of patriots to check the civil wars of the country, lessen the corruption of the nobles, and extend the comforts of the great mass of the people? Or was it the failure of the Gracchi to effect their remedial objects that hastened the calamities they foresaw and dreaded. Spare the Gracchi and read Niebuhr!

Mr. Bowie declared, on the authority of Plutarch, that Tiberius Gracchus, disgraced in war and rebuked by the Senate, sought for popular support by attempting to revive the agrarian law of Licinius, 250 years before, which prohibited any citizen from holding more than a certain number of acres. He quoted a passage from what he considered was the demagogic

and unpatriotic appeal of Gracchus to the people, and compared it with Mr. Chandler's utterance:

"If we deny a home to them [the workingmen], we deny what God has given to us; we deny what our fathers fought and bled for; we deny what your ancestors achieved, and sought to distribute among all men."

Where, asked Mr. Bowie, did the gentleman derive this theory of divine right to land?

We are bidden to earn all we have by the sweat of our brow, and this is the only title to property that I know of which is sanctioned by divine authority. I think in his calm moments the gentleman will acknowledge that he could have uttered nothing more calculated to weaken the bonds of society and shake the title of property throughout the world.

He has intimated that the tenure of our lands has changed with public opinion. This can never change so long as there is any force in the deeds which ceded them to the United States. I would rather witness a solemn convention of the people of the United States absolving every man from his allegiance to the Constitution than to see this principle adopted, for then *might* would be *right*.

Mr. Johnson summed up the arguments against his measure as (1) unconstitutionality; (2) diminution of revenue; (3) demagogism and agrarianism.

In regard to the first he contended that it was as constitutional to appropriate land as money, in order to "provide for the common defense and general welfare." To Congress was given power "*to dispose of*, and make all needful rules and regulations respecting the territory . . . of the United States."

On the second point he said the bill was a measure to

increase and not diminish national revenue, since it would enable non-taxpayers to become contributors to the public treasury by buying manufactured dutiable articles, and also *would enhance the value of the lands remaining for sale*, by building up communities around them.

It was not agrarianism for a man to take what was his own, much less, what was only a part of his own. If the public lands were distributed *per capita* there would be three quarters sections for each qualified voter in the country. The bill proposed to give to applicants only one quarter section.

Although the homestead bill was not enacted at this time, at the close of the next session of Congress (on August 4, 1854), one of the original propositions of Senator Benton's was adopted, that of fixing the price of public lands in accordance with the number of years they had been on the market, with a sliding scale down to twelve and one half cents an acre.

Mr. Grow then became the chief advocate of the Homestead Bill, introducing it at every session. It gradually assumed the aspect of a party measure, the Republicans being its advocates, and the Democrats opposing it, ostensibly on the ground that the graduating act of 1854 had settled the land question, but really because the Homestead Act would augment the preponderance of the free States over the slave States.

Andrew Johnson, advanced to the Senate, introduced the bill there in 1857. It was passed by the Senate and the House, with the help of the Douglas Democrats, but was vetoed by President Buchanan upon the ground that, by oversight, persons of foreign birth might enter lands without being heads of families, though native citizens might not.

The same bill, with this defect remedied, was intro-

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duced in the first Congress of Lincoln's administration, and was passed by overwhelming majorities owing to non-representation of most of the Southern States. It was approved by the President on May 20, 1862.

Slavery

CHAPTER III

THE SLAVE TRADE

Slavery in the Colonies—Debate on Slave Representation in Congress of the Confederation—Debate on the Same in the Constitutional Convention: in Favor, Roger Sherman [Ct.]; Opposed, Rufus King [Mass.], Gouverneur Morris [Pa.], Jonathan Dayton [N. J.]—Sketch of Dayton—Debate in the Convention on Prohibition of Slave Trade: in Favor, Luther Martin [Md.], George Mason [Va.], James Wilson [Pa.], John Dickinson [Del.]; Opposed, John Rutledge, Sr. [S. C.], Oliver Ellsworth [Ct.], Charles Cotesworth Pinckney [S. C.], Abraham Baldwin [Ga.], Pierce Butler [S. C.]—Sketches of Rutledge, Baldwin, Butler—Debates in the First Congress on Reception of Petitions against the Slave Trade: in Favor, John Page [Va.], James Madison [Va.]—Sketch of Page—Petitions Committed—Debate on Report of Committee: in Favor, Elias Boudinot [N. J.]; Opposed, William L. Smith [S. C.]—Sketches of the Debaters—The Fugitive Law of 1793—Debate in the House in 1797 on Receiving Petition of Freedmen against Operation of the Law: in Favor, John Swanwick [Pa.], George Thacher [Mass.], Samuel Sitgreaves [Pa.], Joseph B. Varnum [Mass.], Aaron Kitchell [N. J.]; Opposed, Thomas Blount [N. C.], James Madison [Va.], William L. Smith [S. C.], Nathaniel Macon [N. C.]—Sketches of New Debaters—Debate in the House in 1800 on Receiving Petition against Fugitive Act and Slave Trade: in Favor, George Thacher [Mass.]; Opposed, John Rutledge, Jr. [S. C.], Samuel Goode [Va.]—Sketch of Goode—Debate in the Senate on Concert with Other Nations to Suppress the Slave Trade: in Favor, James Burrill [R. I.], Rufus King [N. Y.], David L. Morrill [N. H.]; Opposed, George M. Troup [Ga.], George W. Campbell [Tenn.], James Barbour [Va.]—Sketches of New Debaters—Acts of Congress to Suppress the Trade—Violations of the Law.

AS we have seen,¹ African slavery was early introduced into the colonies and protected by the

¹ See pages 5 and 38.

Crown and local governments as a system of labor necessary to the development of the new communities. There were, however, early protests against the institution, particularly by the Quakers of Pennsylvania.¹ Some time before the Revolution Richard Henry Lee, of Virginia,² spoke against slavery in a tone of moral denunciation which was afterwards reechoed by his fellow Virginians, George Mason and Thomas Jefferson.

One of the chief complaints made by the colonists against the British government was that, in spite of the protest of most of the colonial assemblies, it had refused to suppress the unholy slave trade between Africa and America.³

In the debate on the Articles of Confederation the slavery question arose to a chief subject of controversy, for the first time sharply dividing the country into the opposing sections of the North and the South. It came up in connection with making population a basis for share of contribution by the various States to Federal revenue. As a result of the debate a compromise was adopted whereby five slaves were counted as three freemen in establishing the apportionment, which standard, being adopted in the Constitution as the basis also for representation in the popular house, transformed the slavery question, an essentially economic problem, into a political one, and so established a cause of sectional strife which required the sword, and not the purse, to settle it.⁴

Debate on Slavery in the Constitutional Convention. The question of the continuance of the African slave trade was referred by the Constitutional Convention

¹ See page 42.

² See Volume I., p. 37.

³ See Volume I., pages 110, 158.

⁴ See Volume I., pages 168-169, 179, 201.

to a committee of one delegate from each State. The committee reported in favor of permitting the trade until 1800, and after this date prohibiting it; and, in the meantime, to permit Congress to tax "such migration or importation" at not above the average rate of other imports. The report was amended to extend the period of importation to 1808 and to limit the tax to ten dollars a head. The States voting against extension were New Jersey, Pennsylvania, Delaware, and Virginia.

This provision brought on a controversy in reference to counting slaves in apportioning Representatives. It extended intermittently from August 8 to the 29th.

The chief speakers in favor of slave representation were Roger Sherman and Oliver Ellsworth, of Connecticut; in favor of the slave trade were General Charles Cotesworth Pinckney, John Rutledge, Sr., and Pierce Butler, of South Carolina, and Abraham Baldwin, of Georgia. Those opposed to slave representation were Rufus King [Mass.], Gouverneur Morris [Pa.], and Jonathan Dayton [N. J.]; and to the slave trade were John Dickinson [Del.], Luther Martin [Md.], and George Mason [Va.].

Sketch of Rutledge. John Rutledge, the elder brother of Edward Rutledge, was a native of Charleston, S. C., belonging to one of the most distinguished families in the State. He studied law in England, and returned to practise it in Charleston in 1761, soon gaining a high reputation in the profession. He was a member of the Stamp Act Congress in 1765, and of the Continental Congress, where his eloquence procured him the tribute from Patrick Henry that he was "by far the greatest orator" of that body. He was chairman of the committee that framed the constitution of South Carolina

in 1776, and was chosen the first president of the State as organized, as well as the commander-in-chief of the State troops. At the close of the war, in January, 1782, he resumed his duties as Governor. Later in the year he was sent to Congress. In 1784 he left Congress to become Chancellor of South Carolina. On the adoption of the Constitution a place in the Federal Supreme Court was offered him, but he declined it to take the position of Chief-Justice of his State. However, in 1795, he accepted the President's appointment as Chief-Justice of the United States, but served provisionally only one session, as his mind became diseased, and the Senate refused to confirm the appointment.

Rutledge's rhetoric is of the academic sort; his diction being somewhat high-flown, and his sentences rather pedantic in structure, his periods being overwrought and often involved. Nevertheless, as delivered, his speeches were most impressive to his generation, and the encomium of Henry should have weight with us of the present day.

Sketch of Butler. Pierce Butler was a younger son of an Irish baronet. He came to America as an officer in the British army, but resigned his position shortly before the Revolution, and settled in Charleston. He entered the old Congress in 1787, and in the same year was appointed a delegate to the Constitutional Convention. In the latter body he supported the Virginia plan, and maintained that property was the true basis of Federal representation.

He served as United States Senator from 1789 to 1796, and from 1802 to 1804. He was a director in the United States Bank.

He occasionally paraded his noble descent, attracting thereby the raillery of his political opponents.

Sketch of Baldwin. Abraham Baldwin was a native of Connecticut. Shortly after his graduation from Yale he was made a tutor in that college. From 1777 to the close of the Revolution he served as a chaplain in the army. At the request of General Greene, to whom Georgia had granted a large estate in that State for services rendered it in the war, Baldwin removed in 1784 to Savannah, where he was admitted to the bar, and in the same year sent to the legislature. Here he secured against great opposition a State charter and large land endowment for a State university, of which he later became the president. He was a member of the old Congress from 1785 to 1788, and of the new from 1789 to 1799, when he was elected to the Senate, where he served until his death in 1807. Upon the death of his father he took charge of the rearing and education of his six half-brothers and -sisters. He was also instrumental in securing a college education for many able but poor young men.

Sketch of Dayton. Jonathan Dayton was the son of Elias Dayton, a veteran officer of the French and Revolutionary wars, and, on his graduation from Princeton in 1776, became paymaster in his father's regiment, rising to the position of captain. The elder Dayton was a member of the old Congress from 1787 to 1788, and, in the former year, the son was chosen, at the age of twenty-seven, as a delegate to the Constitutional Convention. Jonathan was elected to the new Congress in 1790, where he remained until 1799, being Speaker during the last two terms. From 1799 to 1805 he served in the Senate. He received the degree of Doctor of Laws from Princeton while Speaker of the House.

Mr. King thought that the concession to the slave

interest in extending importation should produce a readiness on the part of the interest to relinquish its demand for slave representation.

He could never agree to let slaves be imported . . . and then be represented in the national legislature. Indeed he could so little persuade himself of the rectitude of the practice of slavery that he was not sure that he could assent to it under any circumstances.

Mr. Sherman, though he regarded the slave trade as iniquitous, did not feel like disturbing the question of representation, which had been settled after so much difficulty.

Mr. Morris moved to insert the word "free" before the word "inhabitants," thus excluding slaves from representation.

Slavery was a curse upon the States where it prevailed. Compare the free regions of the Middle States, where a rich and noble cultivation marks the prosperity and happiness of the people, with the misery and poverty which overspread the barren wastes of Virginia, Maryland, and the other slave States.

Upon what principle shall slaves be computed in representation? Are they men? Then make them citizens, and let them vote. Are they property? Then why is no other property included? The houses in this city [Philadelphia] are worth more than all the wretched slaves that cover the rice swamps of South Carolina. He did not believe in giving more votes to the inhuman man-stealer than to the decent citizen of Pennsylvania or New Jersey who views with horror so nefarious a practice.

Mr. Dayton seconded Mr. Morris's motion. It was lost, New Jersey alone voting in the affirmative.

On August 21 Mr. Martin moved to amend the article on slave importation to allow prohibition of, or a tax on, the same.

In view of slaves counting in representation, and of the fact that they weakened one part of the Union which the other parts were bound to protect, the privilege of importing slaves was unreasonable. It was also inconsistent with the principles of the Revolution, and dishonorable to American character.

Mr. Rutledge, for his part, released the free States from any obligation to protect the slave States in case of disturbances arising from slavery.

Religion and humanity had nothing to do with this question. *Interest* alone is the governing principle in politics.

Mr. Ellsworth was for leaving the clause as it stood. General Pinckney said:

South Carolina can never receive the Constitution if it prohibits the slave trade. If left alone, however, she may voluntarily do so, as Virginia and Maryland have already done.

On the following day (August 22) Colonel Mason ascended from denunciation of the African slave trade to that of the institution of slavery in general.

The infernal traffic originated in the avarice of British merchants. The British government constantly checked the attempts of Virginia to stop it. The integrity and welfare of the whole Union is concerned in the matter. The evil of slavery was experienced in the late Revolution. Had slaves been treated as they might have been by the

enemy [*i.e.*, liberated and armed], they would have proved dangerous instruments in their hands.

The prohibition of the slave trade by individual States was of none avail so long as South Carolina and Georgia were left free to bring Africans into the country. The new Western territory would be filled with the wretched creatures.

Slavery discourages the arts and manufactures. The poor despise labor, when they see it performed by slaves. Negro slaves prevent the immigration of free white laborers, who really enrich and strengthen a country.

Slavery debases morals; every master is born a petty tyrant. It brings the judgment of heaven on a country. As nations cannot be punished in the next world, they must be in this. By an inevitable chain of causes and effects Providence punishes national sins by national calamities.

He held it essential in every point of view that the Federal government should have power to prevent the increase of slavery.

General Pinckney declared that his constituents were unalterable upon continuance of the slave trade.

South Carolina could not do without slaves. A rejection of the clause would be an exclusion of the State from the Union.

He also contended that the importation of slaves would be for the best interests of the Union:

The more slaves, the more products to employ the carrying trade; the more consumption also, and therefore the more national revenue.

Mr. Baldwin had similar conceptions in the case of Georgia.

Mr. Wilson observed, that if these States were willing to give up the slave trade after 1808, they could not on principle refuse to enter the Union on the ground that Congress *might* prohibit the trade before then, or lay a tax on it.

As the section stands, all imports but slaves are to be taxed, thus giving in effect a bounty on this importation—which was unjust, unequal, and undemocratic.

Mr. Dickinson endorsed the sentiments of Mr. Wilson. General Pinckney admitted that South Carolina would, in any event, probably not stop importations of slaves entirely, but only occasionally, as she now did.¹ He moved to commit the clause. Mr. Rutledge seconded the motion. Mr. Morris moved to include the proposition to tax exports, so that a bargain might be struck between the North and the South. Colonel Butler declared he would never agree to tax exports. On this Mr. Sherman said that, if South Carolina and Georgia made it a *sine qua non* to import slaves, he would give in to the condition, sooner than leave these States out of the Union. The motion of General Pinckney was carried. The provision was subsequently adopted in the form in which it stands in the Constitution (Article I., section ix., par. 1).

On August 29 Mr. Butler moved to insert the present clause in the Constitution relating to the return of fugitive slaves (Article IV., section ii., par. 3). It was agreed to without opposition.

Early Petitions against Slavery. That the ques-

¹ The truth of this statement was demonstrated by South Carolina continuing intermittently importations of Africans down to the beginning of the Civil War.

tions connected with slavery had not been settled by the compromises in the Constitution was shown by petitions against the slave trade presented to the First Congress on February 11, 1790 from societies of Friends (Quakers) in Philadelphia and New York.

The first memorial protested against the "licentious wickedness" of the commerce, "the inhuman tyranny and blood-guiltiness inseparable from it; the debasing influence whereof most certainly tends to lay waste the virtue, and, of course, the happiness of the people."

A debate arose over the reference of the petitions to a committee.

Representatives in opposition to the reference argued that the Constitution had expressly mentioned all the power Congress could exercise in the matter, and so they could take no action on the request; and that if they did unlawfully interfere, it would cause depreciation in the value of slaves and alarm in the South.

Representatives in favor of referring the petitions (among whom may be mentioned James Madison and Roger Sherman) argued that at least a head tax on importations of slaves could constitutionally be laid, and that it would at least tend to the interest and honor of the country to attempt a remedy for the evil in question; that Congress ought not to refuse to hear petitions from the people when these contained no unconstitutional or offensive requests; and that in this case Congress was the proper legislative body to apply to, since the State legislatures had given up to it all power which they formerly had in the matter.

The addresses were ordered to lie on the table.

On February 12 the Pennsylvania Society for Promoting the Abolition of Slavery, of which Benjamin

Franklin was president, presented a memorial on the abolition of slavery in general. This declared:

That equal liberty being the birthright of all men, the memorialists were moved by a sense of duty to use all justifiable endeavors to loosen the bands of slavery and promote a general enjoyment of the blessings of freedom. That they therefore asked Congress to devise means for removing the inconsistency of slavery in the Republic, stepping to the very verge of their power to discourage every species of traffic in the persons of our fellow men.

It was moved to refer this, with the foregoing petitions against the slave trade, to committee. South Carolina and Georgia Representatives were violently opposed to receiving the petition for the abolition of slavery.

They declared that interference with their "domestic institution" would never be submitted to by the Southern States without a civil war; that slavery was not inconsistent with democracy since the "purest sons of freedom" in the Greek republics held slaves; that it was not opposed to religion, but, on the contrary, was upheld in the Bible—anyway, the patriots of South Carolina and Georgia would not take instruction on points of morality and citizenship from Quaker fanatics, who refused to fight in the Revolution.

Among the Representatives who upheld receiving the petitions may be mentioned two from the slave State of Virginia, John Page and James Madison.

Sketch of Page. John Page was one of the wealthiest planters of Virginia, owning the finest mansion in the State (Rosewell, in Gloucester county), the lead from the window-casements of which he melted into

bullets for the patriots in the Revolution. He was a graduate of William and Mary, where he formed intimate friendship with Thomas Jefferson, sharing in all his political beliefs. He served under Washington against the French and Indians, and was a delegate to the House of Burgesses, and a member of the convention that framed the memorable first constitution of Virginia. During the Revolution, as Lieutenant-Governor of the State and a member of the committee of public safety, he rendered invaluable service to the Republic, contributing much of his fortune to its cause, and raising a company of militia to repel a British invasion of his county. He served in Congress from 1789 to 1797, and, in 1802, became Governor of Virginia. At the end of the three years to which the State constitution limited continuous service of one incumbent, he was appointed Federal Commissioner of Loans. He held this office until his death in 1808.

His speeches (which he published in 1796-99) were noted for a breadth of patriotism that disregarded sectional interests, and for sound common sense, mingled with humor. Thus, on the question of forbidding the retention of titles by naturalized citizens of noble birth, he said that the matter was too inconsequential to notice—that titles without governmental privileges to back them up would become a subject of ridicule in our western democracy, and that, in any case, the relation of lord and liegeman was not as evil as that of master and slave. Indeed, he said, on another occasion, that, if it were not for his age, which could not stand the rigors of a northern climate, he would emigrate from Virginia to a free State in order to partake of the greater advantages of civilization which there prevailed.

Mr. Page declared, on the reception of the anti-slavery petitions, that he lived in a State which had the misfortune of having in her bosom a great number of slaves, many of which were his own, and therefore he was as personally interested in the business as any South Carolinian or Georgian; yet, if he was determined to hold them in eternal bondage, he would feel no alarm in trusting Congress with the memorials, as he relied on their virtue that they would not exercise any unconstitutional authority.

Mr. Madison took the same position.

He admitted that Congress was restricted by the Constitution from *abolishing* the slave trade, but he said that there were a variety of ways in which it could *countenance* the abolition, and that regulations might be made in relation to introducing slaves into new States.

The memorials were referred to committee by a vote of 43 to 14. On March 16 the committee made its report:

This stated that Congress, by fair construction of the slave trade clause in the Constitution, was debarred from interfering before 1808 with emancipation of slaves, or the regulation of slavery by the States, but that the committee trusted that the various State legislatures would revise their laws from time to time to ameliorate the condition of the slaves.

It declared that Congress had the power to lay a head tax, not exceeding ten dollars, on each imported slave, and to provide for humane treatment of the slaves in passage, as well as to prohibit foreigners from fitting out slave ships in United States ports.

It advised Congress to inform the memorialists that, wherever it had jurisdiction in the matter of slavery, this would be exercised on the principles of "justice, humanity, and good policy."

This report was debated from March 17 to 23, when it was passed by a vote of 29 to 25 with amendments eliminating the suggestion to State legislatures that Congress had the power to emancipate slaves after 1808, and the final notice to the petitioners.

The chief speakers in this debate were, in favor of the original report, Elias Boudinot [N. J.]; against it, William L. Smith [S. C.].

Sketch of Boudinot. Elias Boudinot was the great-grandson of a French Huguenot who fled to this country on the revocation of the Edict of Nantes. He received a classical education, and, after studying law, became eminent in his profession in New Jersey. In 1777 he was appointed by Congress Commissary-General of Prisoners. He was a member of the old Congress from 1778 to 1779, and again from 1781 to 1784, being elected president of that body in 1782. He served in the new Congress from 1789 to 1795, when he was made Director of the Mint. In 1805 he resigned this position, and, having a large fortune, thereafter devoted himself to philanthropy and foreign missions. He assisted in founding the American Bible Society in 1816, becoming its president, and endowing it with \$10,000. He was especially interested in the American Indians, whom he contended were the "lost ten tribes of Israel," and he adopted and educated a Cherokee lad, who became a man of influence among his people, and was murdered in 1839 by members of a savage trans-Mississippi tribe which he was endeavoring to civilize. Boudinot also gave liberally to the instruction of deaf-mutes, the education of young men for the ministry, the relief of the poor, and a hospital for foreigners in Philadelphia. Dr. Boudinot published in 1790, *The Age of Revelation*, a reply to *The Age of Reason* by Thomas Paine.

Sketch of Smith. William Loughton Smith received his education in England and at Geneva, Switzerland. He studied law at the Temple in London, returning to Charleston in 1783. After service in the South Carolina legislature he was elected to the new Congress, and remained a member of the House until 1797, when he was made *chargé d'affaires* to Portugal. He was minister to Spain from 1800 to 1801. While in Congress he supported Washington's administration. Being strongly pro-British in his sympathies, he advocated Jay's Treaty, and was burnt in effigy in Charleston by the Republican opponents of that measure. He was a bitter antagonist of the principles of Thomas Jefferson, writing a pamphlet against the pretensions of that statesman to the Presidency. He published his speeches in 1794, a *Comparative View of the Constitutions of the States* (1796), and *American Arguments for British Rights* (1808). He died in 1812.

In the debate on the anti-slavery petitions he characterized them as "a very indecent attack" on the character of the slave States.

He could not but consider them as calculated to fix a stigma of the blackest nature upon his State, and to hold up its citizens to public view as men divested of every principle of honor and humanity. The petitions came with the worst grace possible from Quakers, who professed never to meddle in politics, but to submit quietly to the laws of the country.

Why did they not leave that which they call God's work to be managed by Himself? It was difficult to credit their pretended scruples: while they were exclaiming against Mammon, they were hunting after money with a step steady as time and an appetite keen as the grave.

He denied that Congress could constitutionally emancipate slaves after 1808, saying that this power rested with the States, and could not be concurrent with the Federal government, not being expressly delegated to it in the Constitution. If Congress attempted to exercise it, the Southern States would rise in rebellion.

Would the citizens of that country tamely suffer their property to be wrested from them? Would even the citizens of the free States desire to have the freedmen let loose upon them? Would such a step not be injurious even to the negroes themselves? They were an indolent people, and, if emancipated, would either starve or plunder.

Colonization of the freedmen in Africa has been proposed. This was a fanciful scheme, though based on the admission of a truth, that they were dangerous to the country. But it would be inhuman to relegate them to savagery—to expel them to a remote country from their native soil to which they were accustomed and attached.

Another plan proposed was the liberation of all slaves born after a certain date. But what justice was this to continue the mother in slavery after the child was free? Besides, the young emancipated negroes would still participate in the debasement which slavery is said to occasion.

The social condition of negroes could not be elevated by freedom. The whites would continue in the dominant position, refusing equal association with them. Miscegenation he did not fear, although the Quakers upheld this in theory. But did they practice it? What one of them would suffer their children to mix their blood with a black? [Mr. Smith then quoted Jefferson's *Notes on Virginia* upon this point.]

Slavery in the States was a matter of internal regulation in which no other State had a right to interfere. Thus South Carolina prohibited theatrical representations, but did not try to keep Pennsylvania from having them.

South Carolina might even consider it unwise to tolerate Quakers, because in time of war they would not defend their country, and in time of peace they opposed institutions such as slavery and so incited servile insurrection, but South Carolina would not call on Congress to exterminate the sect throughout the Union.

Mr. Smith said that it was squeamish at this time in the North to oppose slavery. That should have been done when the alliance of the sections was proposed under the Constitution.

The truth is, that the best informed citizens of the Northern States knew that slavery was so ingrafted into the policy of the Southern States that it could not be eradicated without tearing up by the roots their tranquillity and prosperity; that, if it were an evil, it was one for which there was no remedy, and therefore, like wise men, they acquiesced in it. We, on our part, accepted the bad habits of the North; the Northern States adopted us with our slaves, and we adopted them with their Quakers! There was thus an implied contract that each party should not disturb the institutions of the other.

The negro race would not die out with the prohibition of importation of slaves. To accomplish this Congress would have to prohibit sexual intercourse, or order, like Herod, a slaughter of the innocents.

South Carolina would be ruined by emancipation. Its soil can be cultivated profitably only by slaves, the climate and ancient habits forbidding the whites from performing this labor. Great Britain attempted to settle Georgia by whites alone, and failed, and was compelled to introduce slaves.¹

If the slaves of South Carolina and Georgia are emancipated, they will flee to regions where toil is less arduous. What shall we do then for labor?

¹ See page 52.

And, if these States are ruined and depopulated, Northern manufacturers, whom they are coming more and more to patronize, will also be injured.

Let not the North be concerned about the reproach which slavery may cast on the Union. We assume the responsibility for it.

It is said that slavery debases the mind of the slave-owner. Where is there proof of this? Do Southerners exhibit more ferociousness in their manners, more barbarity in their dispositions, than Northerners? Are crimes more prevalent among them?

Slaves are not treated cruelly in the South. On the contrary they are a happier people than the lower order of whites in many countries.

Some have said that slavery is unnecessary; on the contrary, several essential manufactures depend on it. Indigo, cochineal, and various other dyeing materials which are the products of the West Indies can be raised only by slaves.

Abolition of the slave trade would cause massacres in Africa, since it is customary for the slave dealers there, who bring negroes down to the coast, to kill all who are not sold.^{*}

There is no need of regulation of the slave ships to secure the comfort of the negroes in passage, as the captains see to that through selfish interest in the welfare of their property. The confinement on board is no more than necessary. The room was full as much as that allotted on ships of war to British seamen. And flogging also prevailed on British vessels, without the intervention of a court-martial.

Mr. Boudinot deplored the attempt to prove the lawfulness of the barbarous trade.

* As if the abolition of the trade would not prevent any from being brought to the coast!

This indeed was an arduous task in this day of light and knowledge. The sacred Scriptures have been quoted to justify this iniquitous traffic. It is true the Egyptians held the Israelites in bondage for four hundred years, and I doubt not but much the same arguments as now were urged with great violence by Pharaoh of the hardened heart as to why he should not let the people go who had become absolutely necessary to him. Yet it should be remembered that the Almighty Power that accomplished their deliverance is as strong to save to-day. The New Testament has afforded texts to justify slavery. Yet its whole spirit is of love, teaching us to do to others whatsoever we would that men should do to us. Surely the gentleman overlooked the prophecy of St. Paul, where he foretells, among other damnable heresies, "through covetousness shall they, with feigned words, make merchandise of you."

The preamble of the Declaration of Independence also implicitly condemns slavery. Nevertheless I admit that we are now bound not to restrain the slave trade until 1808. But this does not morally justify the traffic.

The arguments against emancipation are not in point, as it is not proposed in this resolution.

The speaker then applied himself to defend the Quakers, with whom he had lived in friendship and for the respectability of whose characters and the regularity of whose lives he could vouch. The charge that they were unpatriotic in the Revolution he indignantly spurned, and, narrating his experiences as Commissary-General of Prisoners, he testified to the abounding philanthropy of the Quakers of New York toward the unfortunate American prisoners, whose distresses Congress was too poor to relieve, and to the persecution which was on this account visited upon these charitable persons by the British. And it should not be forgotten that from the Society of Friends sprang General

Nathanael Greene, and Governor Thomas Mifflin of Pennsylvania.

Abuse of this particular religious sect is unworthy of a statesman, and wholly irrelevant to the subject before us, which is, to declare that Congress has power to prohibit foreigners fitting out slave ships in our ports. This mere declaration is, I think, all that is necessary to accomplish the desired end, since the ship captains will hardly venture a voyage that may be ruined before it is finished.

The Fugitive Law. In February, 1793, Congress had passed without debate, and in the House with but seven votes in the negative, a Fugitive Law, whereby any person "held to labor" in one State or Territory, fleeing to another, might be seized by the one to whom such labor was due, or his agent, and, upon proof of the owner's claim before a Federal judge or local magistrate, be given over to the claimant to be taken back to his State or Territory. A person who concealed the fugitive, resisted his arrest, or rescued him thereafter, was subject to a fine of \$500.

The law did not become a subject of discussion in Congress until January 30, 1797, when John Swanwick [Pa.] presented a petition to Congress for certain free negroes from North Carolina against the operation of the law in their case. They averred that the North Carolina legislature had recently passed an act permitting freedmen to be seized and sold back into slavery, in consequence of which the petitioners had fled to the North, leaving behind their families, property, and gainful occupations, and were experiencing poverty and distress in their exile, with fear of recapture, a fate which had befallen one of their fellows.

The Representatives in favor of receiving the petition

were Mr. Swanwick and Samuel Sitgreaves of Pennsylvania, George Thacher and Joseph B. Varnum of Massachusetts, and Aaron Kitchell, of New Jersey. Those opposed were Thomas Blount and Nathaniel Macon of North Carolina, James Madison of Virginia, and William L. Smith of South Carolina.

Sketches of New Debaters. Swanwick was a member of Congress from 1795 to 1798. He was an earnest man of deeply humane spirit.

Sitgreaves was an eminent lawyer of Easton, Pa., who had been prominent in the State constitutional convention of 1789-90. He served in Congress from 1795 to 1798, when he was appointed a commissioner to settle claims under Jay's Treaty. In 1797 he was the House's manager in the impeachment of William Blount, and in 1799 assisted the Government in the trial of John Fries for treason.

Kitchell was a blacksmith, who had been an active patriot in colonial days and during the Revolution. He was a Representative from 1791 to 1797, and from 1799 to 1801. From 1804 to 1809 he served in the Senate. He was a Republican of Jeffersonian principles.

Thacher was a graduate of Harvard, who became a distinguished jurist. He was a member of the old Congress in 1787-88 and of the new one, as Representative of the Maine district, from 1789 to 1801. From 1800 to 1820 he served on the Massachusetts supreme bench, and from 1821 to 1824 on the same judiciary of Maine. He was a delegate to the constitutional convention of Maine in 1819.

Joseph Bradley Varnum served as an officer in the Massachusetts militia from the age of eighteen until his death in 1821, rising to the office of major-general in 1805. He took part in the Revolution. He was

successively a member of the House and Senate of Massachusetts from 1780 to 1795, when he was elected to Congress, where he served until 1811, being Speaker the last two terms. He was United States Senator from 1811 to 1817, being president *pro tempore* of that body and acting Vice-President from December 6, 1813, to April 17, 1814. He was a member of the Massachusetts convention to ratify the United States Constitution, and that of 1820 to frame the State constitution. Unlike his brother, General James Mitchel Varnum, who was a Federalist, he was a fervent Republican, supporting the principles of Jefferson.

Thomas Blount, a brother of William Blount of Tennessee, who was expelled from the Senate in the course of the year (1797) for conspiracy to seize the Spanish territory of Louisiana, had served in the Revolution, fighting gallantly as a major at Eutaw Springs. After the war he became major-general of militia. He was a Representative in Congress in 1793-99, 1805-09, and 1811-12. He was a Republican in politics.

Macon had opposed, as an extreme State-rights man, the ratification of the United States Constitution. He consistently refused all appointive offices, such as postmaster-general, which were offered him, and on all legislative measures voted as an old-line Republican, opposing offensive war with Great Britain, internal improvement, grants of land to individuals for service to the Republic, etc. He believed that a State could not nullify and remain in the Union, but that it could secede. In the constitutional convention of North Carolina in 1835 he opposed giving the ballot to free negroes.¹

¹For other biographical data of Macon, see footnote on page 63.

Macon's speeches were without oratorical flourish, but direct and logical. Senator Benton said that he "spoke more good sense in getting into the chair and getting out of it than many delivered in long and elaborate speeches." John Randolph called him "the wisest, the purest, the best man that I ever knew."

Mr. Blount hoped that the petition of the negroes would not be received by the House. To do so would be an unconstitutional interference with the law of North Carolina, which had declared them slaves.

Mr. Thacher supported reference to committee.

The gentleman was mistaken in asserting that the petitioners were absolute slaves. They had been manumitted by their masters under State law, but a subsequent law had subjected them to the hazard of reenslavement. Meanwhile, they were free persons, and had a right to be heard by the House.

Mr. Swanwick was amazed that any gentleman should refuse to acknowledge the rights of man by preventing any class of persons from exercising the sacred right of petition.

The case of these people was certainly hard. A reward had been offered of \$10. for one if taken alive, but of \$50. if taken dead. Was not this encouragement to murder? Horrid reward! Could gentlemen hear it and not shudder?

Mr. Blount insisted that there was no proof that the petitioners were free men.

In view of North Carolina legislation, they were *prima facie* slaves.

Mr. Sitgreaves retorted that presumption was, in doubtful cases, in favor of freedom.¹

¹ A sentiment of Edmund Burke.

What evidence was there that the petitioners are slaves? Certainly they had the universal right of petition.

Mr. Madison thought the petition ought to lie on the table.

It was a judicial rather than a legislative question. The petitioners ought to apply to the court of North Carolina to determine their status, whether they were free men or slaves. If they were slaves, the Constitution forbade them to be heard in Congress. They were under the laws of North Carolina, and those laws cannot interpret the laws of the United States.

Mr. Sitgreaves saw no reason in this why the petition should not be received.

If the case should be found to be of a judicial nature, the committee would so report, and the House would honorably refuse the petition.

Mr. Smith said that the practice of a former time was to seal up improper petitions and send them back to the petitioners.

This method ought to be pursued in the present case, as the petition was not one that claimed the attention of Congress. To receive it would invite continual applications from slaves; would spread alarm through the South; and act as an "entering wedge" of discord whose consequences could not be foreseen.

Mr. Thacher declared that the gentleman had no right to assume that the petitioners were slaves.

This would be a new practice for the House which he would deplore to see adopted. It opposed the constitutional freedom of every State where the Bill of Rights had

been adopted, declaring every man is born free, and each has the right of petition.

The gentleman has said that "this was a kind of property on which the House could not legislate"; I would answer that it was a kind on which the House were bound to legislate, the Fugitive Act being a proof of such authority. And if petitions were not to be received the House must legislate in the dark.

It appeared plainly that these men were manumitted by their masters. If a number of men calling themselves legislators subsequently authorized their recaptivity, it was exceedingly unjust to deprive them of the right of petitioning to have their injuries redressed. Though the House could not give freedom to slaves, yet he hoped gentlemen would never refuse to lend their aid to secure freemen in their rights against tyrannical imposition.

Mr. Macon upheld Mr. Madison's position.

Let the petitioners apply to the courts of North Carolina. Trials of this kind had been frequently brought on there, and had very often ended in the freedom of the slaves.

Mr. Varnum could not think why gentlemen should be against having the fact examined.

If it appears that the petitioners are slaves, the petition will of course be dismissed, but if it should appear they are free, and receive injury under the Fugitive Act, the United States ought to amend the law so that justice should be done.

Mr. Kitchell said that it was manifestly improper to refer the case to the South Carolina courts.

The petitioners ought to receive justice from the Federal government who made the law they complain of.

The petition was not received, by a vote of 33 to 50.

Another memorial was presented to the House on January 2, 1800, this being to repeal the Fugitive Act and to abolish the slave trade. The petitioners were free negroes of Philadelphia, too ignorant to sign their names, affixing their marks instead, and therefore it was evident, said those opposing reception of the memorial, that white Abolitionists were the real movers in the matter.

John Rutledge, Jr. [S. C.], made a characteristic fiery speech against reception, threatening secession of the South if the abolition agitation continued. He referred to the horrors of the insurrection in San Domingo (more properly Haiti),¹ which thereafter became a stock illustration among pro-slavery orators of the dangers of encouraging ideas of liberty among slaves.

“Three emissaries from San Domingo appeared in the hall of the French Convention demanding the emancipation of their species from slavery. The convention were told [by opponents of the demand] that it would operate as an entering wedge that would go to the destruction of property and the loss of one of the finest islands in the world; that it would be murderous in the extreme. . . . But those gentlemen said no, it cannot be, all our desires originate in philanthropy. . . . But, sir, we have lived to see those dreadful scenes. . . .

“Most important consequences may likewise be the

¹ Haiti was a French province. During the French Revolution the negroes, encouraged by the reception by the people of France accorded to their appeal for recognition in their case of the “rights of man,” rose against their oppressors. The year of 1791 was especially marked by the most bloody massacres of masters and their families. In 1793 commissioners of the French Convention proclaimed the freedom of the blacks. At the time of the debate Toussaint L’Ouverture reigned as virtual dictator of the island.

result of the present anti-slavery agitation, although gentlemen little apprehend it. There have been Abolition emissaries among us in the Southern States; they have begun their war upon us; an actual organization has commenced . . . and determinations have been made."

Gentlemen in France used arguments like those of the gentleman from Massachusetts [George Thacher]: "We can indemnify these proprietors." But how did they do it?—how can it be done? Not at all. Further we are told that emancipation is reasonable and inevitable. Sir, it will never take place. There is one alternative which will save us from it, but that alternative I deprecate very much—we are able to take care of ourselves, and, if driven to it, we will take care of ourselves.

Samuel Goode [Va.]^x moved a resolution to the effect that petitions to Congress to legislate on subjects from which the Federal government is precluded by the Constitution have a tendency to create disquiet and jealousy, and should therefore receive no countenance. This was adopted by a vote of 81 to 1, unanimity being broken only by Mr. Thacher.

International Concert to Suppress the Slave Trade. The slave trade was officially put under the ban of the United States on the expiration in 1808 of the constitutional agreement for its continuance. Nevertheless it was carried on by citizens of the United States under foreign flags (Spanish and Portuguese).

Late in 1817 the Society of Friends of Baltimore petitioned Congress to adopt laws more effectually to prevent this illicit traffic, and also to take measures in concert with other nations (Great Britain in particular) to secure the entire abolition of the slave trade.

^x Goode had been a member of the Virginia legislature. He served in Congress from 1799 to 1801.

Senator James Burrill [R. I.] moved to refer the petition to a committee to inquire into the expediency of the legislation and action proposed. He was supported by Rufus King (now a Senator from New York), and David L. Morrill [N. H.]. The motion was opposed by George M. Troup [Ga.], George W. Campbell [Tenn.], and James Barbour [Va.].

Sketches of New Debaters. Burrill was a graduate of Rhode Island College (now Brown University). He was Attorney-General of his State from 1797 to 1813. He was Speaker of the Rhode Island House of Representatives in 1814, and Chief-Justice of the State in 1816. In 1817 he entered the United States Senate. He took an important part in the debate on the Missouri Compromise in 1820. He died in the same year.

David Lawrence Morrill had been successively a physician, a preacher, and a State legislator. He was Speaker of the New Hampshire House of Representatives in 1816. He was elected in 1817 to the United States Senate as an Adams [National] Republican, and served until 1823, when he entered the State Senate, becoming its President. From 1824 to 1826 he was Governor. He spent the latter part of his life in editing a religious newspaper, and in performing works of philanthropy. While in the United States Senate he took an active part in the debates on the Missouri Compromise.

George McIntosh Troup was a graduate of Princeton and a lawyer. After a term in the State legislature he was elected to Congress, serving from 1807 to 1815. He heartily supported the administrations of Jefferson and Madison, and joined with John Randolph in his fight against the Yazoo land speculators. He was Senator from 1816 to 1818, and in 1823 became Governor of Georgia, in which capacity he secured a treaty with

the Creek Indians by which, for a money consideration, they ceded to the State all their lands. He again entered the Senate in 1829, but resigned in 1833 on account of ill-health. During this term he ardently upheld nullification.

James Barbour was admitted to the bar at the age of nineteen. He was a member of the Virginia legislature from 1796 to 1812, when he was elected Governor. In 1815 he went to the United States Senate, where he was made chairman of the Committee on Foreign Relations. In 1825 he became Secretary of War under President Adams, and in 1828 went as minister to Great Britain. He was recalled the next year by President Jackson. He became an ardent Whig, presiding over the convention which nominated General Harrison for President.

The debate on the Friends' petition for suppression of the slave trade extended from January 2 to 12, 1818.

Senator Troup was opposed to foreign coalition for any purpose whatsoever.

He was as ready to go as far as anyone in enforcing within our own jurisdiction the abolition of the slave trade, but concert with any other nation he would not consent to. He could not separate from foreign alliances the idea of foreign politics and foreign wars. They were opposed to our historic policy. Besides, if we entered into obligations with foreign countries, we were, owing to our naval weakness, powerless to fulfill them.

Senator Burrill denied that the proposed concert was of the nature of a foreign alliance.

It was not opposed to our national policy. A provision was made for it in the Treaty of Ghent. Only by coöperation of nations could the slave trade be abolished, for, no

matter how many of them prohibited it, if one or two carried it on, the evil would continue to the same degree.

Senator King said that it was the boast of this country that it was the first to abolish the infamous traffic.

The example had been followed by all other Christian nations but Spain and Portugal. So long as these two countries conducted the trade, and so long as any of our own people pursued it under their flags, it was necessary for the honor of the United States to concur in any proper measure for its suppression.

Senator Campbell asked, how were we to coerce the offending nations?

Are we prepared to risk a war for this object? For to such a result the action proposed would surely lead.

Senator Burrill said that we were in honor bound to fulfill the provision of the Treaty of Ghent.

The Senate should not give ground for the disgraceful suspicion that they are not sincere and hearty in this cause of suffering humanity. The slave States were joined with the free in wishing for the abolition of this abominable traffic. Indeed, it was Virginia that had the honor of being the first State to prohibit it.

Senator Barbour said that America stood in the relation to the rest of the world that Virginia does to America.

The nations of Europe were following her example. Spain, it was reported, was to give up the trade for a pecuniary compensation. Portugal alone would remain, and it was reasonable to expect that she could not long stand out against the enlightened opinion of the world. Never-

theless he believed that a concert of the nations might hasten the total abolition of the trade. He feared nothing from an alliance with other nations whose sole object was humanity.

However he denied that the Senate was competent to act on the proposed concert. This was the function of the President.

Senator Morrill confessed to New England prejudice in favor of humanity.

The slaves were human beings. Every human affection recoils at their bondage; may every human arm be extended for their emancipation.

The moral effect of the entry of the United States, the first country to take a step in the direction, into a world-wide movement for abolition of slavery would be inspiriting not only to other nations, but to the slaves themselves. Carry the great design into effect, and you place these forlorn objects within the reach of political and moral instruction, which is the basis on which every good government must stand. We, sir, are a Christian nation. The Bible is our moral guide. Have not the frowns of indignant Heaven rested on nations and cities for their ingratitude to their fellow mortals? Babylon the great has fallen! What brought her down? In what did her commerce consist? "In gold . . . and chariots, and slaves, and the souls of men." Ah, Mr. President, this last was the climax of her abominations! This brought down the judgments of Heaven. That they may be averted from the world, let the inhuman traffic be abolished to the end of the earth.

The petition was referred to committee by a vote of 17 to 16. In accordance with the report of this and subsequent committees, Congress, by the Acts of April 20, 1818, and March 3, 1819, authorized the President to send cruisers to the coast of Africa to stop the slave

trade, and by the Act of May 15, 1820, declared the traffic to be piracy. By the Webster-Ashburton Treaty of 1842 the governments of the United States and Great Britain agreed to maintain independent squadrons on the African coast to act in conjunction to suppress the trade.

However, the slave trade between Africa and the United States was not entirely suppressed until the close of the Rebellion, being most active just prior to the war, when the domestic supply of slaves was insufficient to fill the demand for them created by the development of the Southwest. In 1859-60 eighty-five vessels were fitted out from New York as slavers, with the tolerance of Buchanan's administration, and it is estimated that they brought into the country from 30,000 to 60,000 negroes. During these years the repeal of the laws against the trade was actively urged by many prominent Southern statesmen and newspapers, and was openly demanded and justified in political conventions such as the national Democratic one held at Charleston, S. C., in 1860.

CHAPTER IV

THE MISSOURI COMPROMISE

Organization of Mississippi Territory with Slavery—Missouri Applies for Admission into the Union—House Debate on the Restriction of Slavery: in Favor, James Tallmadge [N. Y.], John W. Taylor [N. Y.], Timothy Fuller [Mass.], Arthur Livermore [N. H.]; Opposed, Henry Clay [Ky.], Philip P. Barbour [Va.]—Sketches of Debaters, except Clay—Organization of Arkansas Territory with Slavery—Proposition of Louis McLane [Del.] and Mr. Taylor to Divide Slave and Free Territory by a Line of Latitude—Sketch of McLane—Maine Seeks Admission into the Union—Senate Debate on the Maine and Missouri Bills: in Favor of Restriction of Slavery in Missouri, Rufus King [N. Y.]; Opposed, William Pinkney [Md.]—Sketch of Pinkney—Senator Jesse B. Thomas [Ill.] Proposes Missouri Compromise—Sketch of Thomas—House Debate on the Compromise: in Favor, Benjamin Hardin [Ky.], James Stevens [Ct.]; Opposed, Henry Meigs [N. Y.], Joseph Hemphill [Pa.], John Sergeant [Pa.], Mr. Barbour, Charles Pinckney [S. C.], John Tyler [Va.]—Sketches of Debaters, except Barbour and Pinckney—Compromise Adopted—Maine Admitted into the Union and Missouri Ordered to Prepare Constitution—Its Constitution Debars Free Negroes, and Debate Ensues in Congress upon it—Clay Effects a Compromise—Restriction of Free Negroes Eliminated, and Missouri Admitted.

OUTSIDE of the African slave trade the specific issue of the slavery question which occupied the attention of the country from the formation of the government under the Constitution until the Civil War was the extension of the system to the Territories and the States formed therefrom.

As has already been related¹ the Northwest Territory

¹ See page 56.

was organized in 1787 with the exclusion of slavery. On March 23, 1798, the question of the organization of the Territory of Mississippi (comprising the present States of Alabama and Mississippi) came before the House. A resolution was offered giving the Territory the government of the Northwest Territory with the exception of the prohibition of slavery. George Thacher [Mass.] offered an amendment to include this. It received only twelve votes in its favor.

Benton, in his *Debates of Congress*, says:

"It was the first debate on the prohibition of slavery in a Territory which took place under the Federal Constitution, and it is to be observed that the constitutional power of Congress to make the prohibition was not questioned by any speaker. Expedient objections only were urged."

Admission of Missouri into the Union. At the close of the War of 1812 the free and the slave States were equal in number, nine and nine. In 1816, Indiana was admitted as free, being a part of the Northwest Territory. In 1817, Mississippi was admitted as slave, being the western part of the original Mississippi Territory, and Alabama was organized as a Territory. In 1818, Illinois was admitted under the same conditions as Indiana. To preserve the equality of the sections, the next State should be admitted as slave. When, therefore, the northern part of Missouri Territory (the present State of Arkansas was the southern), organized by various acts of Congress from 1812 onward out of the Louisiana Purchase, wherein slavery prevailed by the treaty with France, applied for admission to the Union late in 1818, the Southern statesmen assumed that it would be organized as a free State. They were therefore greatly incensed when James Tallmadge [N. Y.],

on February 13, 1819, moved in the House to amend the bill for the admission of Missouri, by providing that all inhabitants born after the date of admission should be free, and that inhabitants now enslaved should be gradually emancipated. The amendment was debated from February 13 to 15, when it was adopted by the committee of the whole by 79 votes to 67.

Of this debate Benton says:

"This was the commencement of the great Missouri agitation which was settled by the Compromise. No two words have been more confounded . . . than . . . 'restriction' and 'compromise'—so much so that some of the eminent speakers of the time have had their speeches against the restriction [of slavery] quoted as being against the compromise, of which they were zealous advocates. . . . No two measures could be more opposite in their nature and effects. The restriction was to operate on a State; the compromise, on territory. The restriction was to prevent the State of Missouri from admitting slavery; the compromise was to admit slavery there, and to divide the rest of Louisiana about equally between free and slave soil. The restriction came from the North; the compromise, from the South.¹ The restriction raised the storm; the compromise allayed it."

The principal speakers in favor of the Tallmadge amendment were John W. Taylor [N. Y.], Timothy Fuller [Mass.], and Arthur Livermore [N. H.]. Henry Clay [Ky.] and Philip P. Barbour [Va.] were the chief speakers in the negative. The remarks of Mr. Clay, who was Speaker of the House, were not reported, but some of them were quoted by his opponents.

Sketches of Debaters. James Tallmadge was a

¹ Senator Thomas [Ill.] who introduced the Compromise in the Senate was acting in Missouri's interest.

graduate of Rhode Island College (now Brown University). For a time he divided his attention between law and farming. During the War of 1812 he was a captain of home-guards. He served one term in Congress (1817-19), declining reelection. He was a Republican in politics, defending General Jackson's course in the Seminole War. Afterwards he became a Whig on the issue of a protective tariff. He advocated choosing Presidential electors by direct vote of the people. He was a delegate to the New York constitutional conventions of 1821 and 1846, and in 1825-26 was Lieutenant-Governor of New York. He was much interested in the manufacturing industry, traveling in Russia to introduce American cotton-spinning machinery there. He was one of the founders and governors of New York University, and was endowed by it with the degree of Doctor of Laws. He published a number of his speeches, which are distinguished by high literary quality. He was considered one of the most eloquent orators of his day.

John W. Taylor was a graduate of Union College, a lawyer, and a State legislator. He was a member of Congress from 1813 to 1833, being Speaker in 1820-21, 1825-27. He was one of the organizers of the National Republican, afterwards the Whig party. After retiring from Congress he practiced law at Ballston. He was elected to the State Senate in 1840, but resigned in 1841 on account of a paralytic stroke. He was a finished orator.

Timothy Fuller was graduated at Harvard with second honors, and, after teaching school, he engaged in the practice of law. After service in the Senate of Massachusetts, he entered Congress in 1818 and served until 1825, when he was elected to the Massachusetts

assembly, becoming its Speaker. He was chairman of the Committee on Naval Affairs in Congress. Though elected as a Republican he spoke in behalf of the Seminole Indians in the Jackson controversy, and became a National Republican, publishing a pamphlet in defense of J. Q. Adams's election as President. His speeches and addresses were literary in character. He was the father of the noted writer, Margaret Fuller Ossoli.

Arthur Livermore was the son of Samuel Livermore, Chief-Justice of the Supreme Court of New Hampshire, and, like him, became a distinguished jurist, being Chief-Justice of the Superior Court of the State. He also was a member of the legislature. He was elected to Congress as a Republican, serving from 1817 to 1821, and from 1823 to 1825. He was Chief-Justice of the Court of Common Pleas in his State from 1825 till 1833.

Philip Pendleton Barbour was a younger brother of Senator James Barbour. Sent at the age of seventeen by his father to Kentucky to settle some land claims, being unsuccessful in the business, he was cast off to shift for himself by the irate parent. He then applied himself to the law, and used the money he made in practice, in addition to a loan which he negotiated, to educate himself in law at William and Mary. Settling in Orange county, Va., he soon acquired a wide reputation for legal ability. From 1812 to 1814 he served in the legislature, becoming a leader of the war party. In 1815 he was elected to Congress. In 1824 he was chosen as Speaker. He resigned in 1825 to take a Virginia judgeship, but returned to the House in 1827. In 1829 he presided over the Virginia constitutional convention. In 1830, while speaking on the floor of the House, he was attacked by a hemorrhage, and, in consequence, resigned his seat. Recovering his health he

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accepted appointment as a Federal judge in Virginia. In 1831, he presided over the Philadelphia Free Trade Convention. In 1832, he was a prominent candidate at the Democratic convention for Vice-President. In 1836, he was elevated to the Supreme Court, where he served until his death in 1841. Says *Appleton's Cyclo-pædia of American Biography*:

"Judge Barbour was noted for his solidity of character and his powers of analysis and argument. In Congress he opposed all appropriations for public improvements and all import duties."

Restriction of Slavery in Missouri. Mr. Taylor opened his side of the debate by stating the momentous nature of the issue.

"Our votes this day will determine whether the high destinies of this region and of these generations shall be fulfilled, or whether we shall defeat them by permitting slavery, with all its baleful consequences, to inherit the land."

He presented two propositions: (1) Has Congress power to lay the proposed restriction? (2) If so, is it wise to exercise it?

On the first point he quoted the third section of the first article of the Constitution giving power to Congress to dispose of the national territory and regulate it. The power to admit new States is discretionary with Congress; it may refuse to admit them. The greater includes the less; therefore it may make conditions of admission. It did so in 1802 in the case of Ohio by restricting slavery; also in the later

cases of Indiana and Illinois. Missouri lies in the latitude of these States, and its soil, productions, and climate are the same, and the same principles of government should be applied to it.

But it is said that by the Treaty of 1803 with France (cession of Louisiana) Congress is restrained from prohibiting slavery in any part of the Purchase. The third article is quoted which requires that the inhabitants shall be admitted as soon as possible to all the privileges of United States citizens, and, in the meantime, shall be protected in the free enjoyment of their "liberty, property, and the religion which they profess." Nothing is said of erecting new States in the ceded territory. That is discretionary with Congress. So, too, are the conditions of Statehood; thus, when Louisiana was admitted to the Union in 1811, Congress imposed the condition that trial by jury be introduced, though this was considered by the inhabitants, accustomed to the civil (Roman) law wherein it is not found, as an odious departure from their ancient administration of justice. So, too, English was ordained to be the language of the courts. The new State must be in accord with American principles.

With how much more right, then, may Congress restrict slavery, a direct contradiction of our Declaration of Independence?

Missouri was purchased with our money, and while a Territory it may be sold for money—to a monarchical government, if we will. We can thus change its whole political system. Cannot we exercise the lesser power of providing against the increase of slavery within its limits?

On the second point, that of expediency in restricting slavery, Mr. Taylor said:

How often and how eloquently have Southern gentlemen deplored the existence of slavery among them! They now

have an opportunity of putting their principles into practice. So have we all. If we reject the amendment, and suffer this evil, now easily eradicated, to strike its roots so deeply in half our continent that it cannot be removed, shall we not give posterity reason for doubting our sincerity? Are we not like the scribes and Pharisees who said that, had they lived in the days of their fathers, they would not have stoned the prophets, while manifesting themselves in spirit the legitimate descendants of these persecutors?

The gentleman from Kentucky [Mr. Clay] has pressed into his service the cause of humanity, pathetically urging us to withdraw our amendment and suffer the unfortunate slaves to be dispersed over the country to be better fed, clothed, and sheltered. This is counterfeit humanity—a nostrum which, in purporting to alleviate a disease in one organ, would scatter its seeds through the whole system.

In vain will you enact severe laws against the importation of slaves if you create an additional demand for them by opening the western world for their employment. Unprincipled men will encounter every peril in the persecution of this unhallowed traffic.

It is said that the restriction is unjust to the citizens of the South, by discouraging their emigration westward. But we place all our citizens, North and South, on equal footing. The class of emigrants will be affected, no doubt. If slavery shall be tolerated, the rich planters will come with their slaves; if it is rejected, the poorer and more laborious people. Which is better for the happiness and prosperity of a country?

Northern workingmen will not settle in a country where they must take rank with negro slaves. Slavery tends to make the white masters despise labor. This the gentleman from Kentucky illustrated by speaking of the domestic labors, performed by our wives and daughters in the North without a thought of degradation, as "servile." The low esteem in which workingmen are held by the South is shown by the fact that they are not chosen as legislators.

When have we seen a Southern Representative on this floor who was not a slaveholder?¹

It is claimed by opponents of this amendment that restriction of slavery will lower the price of public lands in Missouri and so diminish national revenue. In my opinion the effect will be precisely the reverse.

True it is that lands in Alabama have sold for more than in Illinois, but this is due to a difference in staples produced. The advanced price of cotton has created an unprecedented demand for land suited to its cultivation.² But Missouri is not suited to raising cotton. Its products are those of Illinois, its neighbor. The true test is to compare the value of land in adjoining States. Take Maryland and Pennsylvania for example. Land on the Pennsylvania side of Mason and Dixon's line, where slavery does not exist, uniformly sells at a higher price than lands of equal quality on the Maryland side where slavery prevails. Thus the further introduction of slavery into Missouri will probably diminish the value of public land, and decrease the national revenue from it. But should the fact be otherwise, does it become the high character of an American Congress to barter the present happiness of our fellow men, and the future safety of unborn millions for a few pieces of pelf—a few cents on an acre of land? Great profits are made

¹ Yet the vast majority of Southern white men were non-slaveholders. This is a significant illustration of the tendency of slavery to make free as well as slave laborers humble in spirit.

² Cotton had become a highly remunerative product owing to the invention of the cotton gin by Eli Whitney in 1792. Owing to ignorance of agricultural economy, the land in the South was quickly "cropped out" by raising only cotton, and new land was eagerly sought for, especially as the first crop was generally a "bumper" one. This caused the quick settlement of Alabama and Mississippi by planters, and the vast increase of slaves owned by single masters, as well as the great development of breeding slaves in the Border States to supply the demand of the Cotton States for laborers, thus leading to aggravation of the evil of separating husbands from wives and parents from children, which had formerly been very slight, and regarded as inhumane by owners.

in the African slave trade, yet we would not tarnish the fame of our national ships by engaging in it.

It is true, as has been urged, that Missouri, after becoming a State, may legally abolish slavery, but will she do it? Established systems are hard to overthrow. The Ordinance of 1787 fixed the condition of the States formed from the Northwest Territory. The exclusion of slavery from them is now more effectually insured by public sentiment than by constitutional prohibition. Require Missouri to begin right now, and the same moral effect will be produced. No convention of the people will ever permit the future introduction of slaves.

Mr. Fuller was the next speaker. He declared that the amendment was in harmony with Article IV, section 4 of the Constitution guaranteeing a "republican form of government" to new States.

The existence of slavery in any State is a departure from republican principles, as enunciated in the immortal Declaration.

The speaker was here interrupted by several Southern Representatives, who thought it improper to question in debate the republican character of the slave States; and one member from Virginia added that it had a tendency to deprive those States of their constitutional right to hold slaves as property, and to rouse the spirit of insurrection among the slaves, since some of them might be listening in the House gallery. Mr. Fuller replied that he did not believe discussion of republican principles, or quotation from the Declaration of Independence could endanger the right or merit the disapprobation of any portion of the Union.¹ He continued:

¹This point was made by Senator George Frisbie Hoar [Mass.] on the prohibition of reading the Declaration of Independence to the Filipinos.

The honorable Speaker [Mr. Clay] cites the first clause of the second section of the fourth article of the Constitution granting to the citizens of each State the "privileges and immunities of citizens of the several States," as opposed to the restriction of slavery in Missouri. But I think it has been sufficiently shown that slavery is an exception to the general principle of the privileges and immunities referred to.¹

It is also contended against the amendment that it abridges the right of citizens of the slave States to transport their human property to Missouri and sell it there. Now the clause in the Constitution referring to the slave trade states that "migration or importation" of persons shall not be prohibited by Congress till 1808, which plainly implies that they may be prohibited after that date. Indeed, the importation has been prohibited. Now it becomes the duty of Congress to prohibit the migration of slaves, in order to prevent the further extension of the intolerable evil of slavery.

The expediency of the measure is apparent. The opening of an extensive slave market will tempt the cupidity of those who otherwise might gradually emancipate their slaves. We have heard much of the Colonization Society,² an institution which is the favorite of the humane gentleman of the slave States. How will the generous intentions of these persons be frustrated if the price of slaves is to be doubled? Indeed, it is to be feared that kidnapping of free negroes will be greatly encouraged by the great increase in demand for slaves.

Mr. Barbour followed. He admitted the constitutional right of Congress to restrict slavery in a Territory, but denied it in the case of a Territory becoming a State.

¹ It was as much the privilege of the black to be free, as in the Northern States, as it was of the white to own him, as in the Southern, and the term "immunity" could hardly be applied to slavery.

² See the following chapter.

The term "State" has a determinate meaning: it imports the existence of a political community free and independent, and entitled to enjoy all those rights of sovereignty which belong to the original States into union with which it is to be admitted. The question of deciding whether or not to admit slavery is a right of sovereignty which was not delegated by an original State to the Federal government, and therefore is reserved to the State. Indeed, a free State is at liberty to adopt slavery; but it is proposed to deny this right to Missouri. If, however, as contended, it may adopt slavery after admission into the Union, we are doing worse than nothing to legislate upon the subject.

If we have the right to shear new States of one beam of sovereignty, we have the same right to take from them any other attribute of sovereign power.

Take the converse of the proposition: require Missouri to provide that there shall be slavery in the State. Does any man contend for this?

The ordinance providing for exclusion of slavery from the Northwest Territory was enacted before the adoption of the Constitution. The precedent therefore does not apply to the admission under the Constitution of the State of Missouri. In my opinion the ordinance is utterly void,¹ and consequently those States formed from the Territory might introduce slavery if they so willed, because the territory which composes them belonged originally to Virginia. She ceded it to the United States upon the express condition that it should be formed into States as sovereign as the other States. The prohibition of slavery was made *after* the cession, violating this compact by predetermining that the States to be formed from the territory should be less sovereign than the original States.²

¹ See page 58.

² This seems to conflict with the speaker's previous admission that Congress has a right to prohibit slavery in a Territory, and with his contention that such prohibition does not legally predetermine the

But it is said that we imposed conditions on Louisiana, requiring the establishment of religious and civil liberty, and trial by jury. But these conditions attach also to all the original States, by the first, fifth, and seventh amendments to the Constitution. Slavery is a *domestic* concern, to be left to the will of the State.

Owing to the affection of masters for their slaves, and their usefulness in clearing new soil, restriction of slavery in Missouri is tantamount to forbidding immigration thither by Southern people. This would limit immigration to that from the North, a palpable and monstrous injustice.

Is it good policy to perpetuate fixed boundaries between the free and slave States? The great object of our Federal compact is union, which is best accomplished by giving every facility possible to intercourse between the different sections of the extensive Republic, that the asperities of our mutual prejudices and jealousies may be rubbed off by attrition with each other, and that we may be knit together by a sympathy of feelings and by a community of manners. Already we are divided by Mason and Dixon's line and the Ohio. Let us not make the Mississippi another great boundary for perpetuating the same distinctions and dividing our country into castes.

Gentlemen mistake when they say Northerners will not emigrate to Missouri if it is a slave State. Look at the swarms of emigrants, many of them merchants, pouring from the Northern hive into the South, where they soon become familiar with our habits and institutions, and often prosper, indeed, beyond our own people, being entirely satisfied and happy, though in a slave-holding region.

Judge Livermore devoted his speech chiefly to the moral side of the question.

Slavery is the condition of man subjected to the will of the master who can make any disposition of him short of exclusion of slavery when it becomes a State. However, it practically predetermined it.

taking away his life. In the slave States it is a penal offense to teach the negroes to read, and they are not permitted to attend public worship.¹ Thus the light of science and of religion is excluded from their minds, that the body may be more easily bowed down to servitude. The bodies of slaves may with impunity be prostituted to any purpose, and deformed in any manner² by their owners. The sympathies of nature are disregarded: mothers and children are sold and separated; the children wring their little hands and expire in agonies of grief, while the bereft mothers commit suicide in despair.³

But, sir, I am admonished of the Constitution. I know that we may not infringe that instrument, and therefore I do not propose to emancipate slaves. The proposition before us goes only to prevent making slaves of such persons as have the right to freedom. Our Constitution does not forbid this. On the contrary, in its preamble it says that its purpose is to form a more perfect union and insure domestic tranquillity. Will slavery effect this? Can we, sir, by mingling bond with free, black spirits with white, like the witches in *Macbeth*, form a more perfect union and insure domestic tranquillity? The second purpose of the Constitution is to establish justice. Is justice to be obtained by subjecting half mankind to the will of the other half? The third purpose is to provide for the common defense and secure the blessings of liberty. Does slavery add anything to the common defense? Sir, the strength of a republic is in the arm of freedom. But, above all things, do the blessings of liberty consist in *slavery*? If there is any sincerity in our profession that slavery is an evil, tolerated only from necessity, let us not shun our duty to confine it to the narrowest limits prescribed for it by the Constitution.

¹ The latter statement is too sweeping by far.

² The latter charge is extravagant.

³ True only in rare instances, but the rarity is evidence of the degrading effect of slavery on the character of the slave. Man adapts himself to inevitable and expected events.

Policy, too, forbids the extension of slavery. Even the slave States should recognize the danger of increasing the number of slaves to the point where, conscious of their strength, they draw the sword against their masters, and where the free States are also involved, since it is to these that the masters will resort for an efficient power to suppress servile insurrection.

An opportunity is now presented, if not to diminish, at least to prevent, the growth of a national sin which sits heavy on the soul of every one of us. If we suffer it to pass unimproved, let us no longer tell idle tales about the gradual abolition of slavery. Away with colonization societies, if their design is to rid us only of free blacks and turbulent slaves; have done with Bible societies, whose views are extended to Africa while they overlook the deplorable condition of our sable brethren within our own borders. Make no more laws to prohibit the importation of slaves, for the world must see that the object is only to prevent the glutting of a prodigious market for the flesh and blood of man which we are about to establish in the West, and to enhance the value of sturdy wretches, reared like black cattle and horses for sale on our own plantations.

On the day following this debate (February 16) the amendment was altered in character, divided into two sections, and then passed: the first section, prohibiting the further introduction of slavery into Missouri, by 87 votes to 76, and the second, emancipating at the age of twenty-five all slaves born in the State after its admission into the Union, by 82 votes to 78. The House then passed the bill to admit Missouri into the Union. The bill was sent to the Senate, and this body, on February 27, struck out, by a vote of 31 to 7 the clause emancipating children of slaves, and, by a vote of 22 to 16 that relating to further introduction of slavery. The House refused to accept these amend-

ments by a vote of 78 to 66, and, the Senate adhering to its action, Missouri remained a Territory.

Organization of Arkansas Territory. On February 17, the House took up a bill to organize the southern part of Missouri Territory into the Territory of Arkansas. The debate covered most of the ground of the preceding discussion, but differed with it in that the chief issue was the imposition of restriction of slavery on a Territory and not a State. On February 19, the House voted, 89 to 97, to strike out the provision liberating, at the age of twenty-five, slaves born in the Territory, and, 90 to 86, to strike out the provision prohibiting the introduction of slavery. The Senate concurred in the bill on March 1, 1819, and Arkansas was organized as a slave Territory.

In the course of the debate Louis McLane [Del.]^x suggested that a line be fixed north of which slavery hereafter should not be permitted in admitting States into the Union. John W. Taylor [N. Y.] thereupon offered an amendment fixing the northern boundary of the proposed Arkansas Territory (36 degrees and 30 minutes north latitude) as this line. Seeing from the opposition that the proposal would be defeated, he withdrew it, for introduction at a more favorable time.

Alabama was admitted with slavery on December 14,

^x Mr. McLane entered the United States Navy at the age of twelve as a midshipman. At the age of fifteen he left the Navy, and entered Newark College, Del. He afterwards studied law under James A. Bayard, Sr., being admitted to the bar at the age of twenty-one. He was a volunteer in the defense of Baltimore in the War of 1812. He was elected to Congress in 1817, and served till 1827, becoming Senator in that year. In 1831 he was appointed Secretary of the Treasury by President Jackson. In 1833 he was transferred to the State Department because of his refusal to sanction the removal of the deposits in the United States Bank. In later life he was president of the Baltimore and Ohio railroad.

1819, thus restoring the equilibrium between the free and slave States. Missouri, angered at the delay in giving her Statehood, now clamored all the more strenuously for admission into the Union, especially as Maine was seeking admission as a free State, this portion of Massachusetts, which was separated from the remainder by New Hampshire, and differed from it in politics (being Republican while the old "Bay State" clung, the last of the Union, to Federalism), desiring to have an independent government.

On January 3, 1820, the Maine bill passed in the House and went up to the Senate, where a determined effort was made by the pro-slavery majority (which included three Northern Senators) to block its passage unless Missouri was admitted at the same time as a slave State.

In the Senate debate the acknowledged leaders were Rufus King [N. Y.] on the anti-slavery side, and William Pinkney [Md.] on the pro-slavery side.¹

Sketch of Pinkney. Pinkney, while spelling his name without the *c*, was a distant relative of the South Carolina Pinckneys. Though his father was a Tory in the Revolution, suffering the confiscation of his property, which deprived the son of a college education, the young man sided with the patriots. He was admitted to the bar at the age of twenty-two. Two years later he ratified the United States Constitution as a member of the Maryland convention, and for four years thereafter sat in the State legislature. In 1796, he was a commissioner to settle American claims, under Jay's Treaty, for spoliation of commerce. Returning after

¹ A full report with copious notes of the speeches of King and Pinkney is presented in *American Orations* by Johnston and Woodburn, vol. ii. Accordingly the reader is referred to this book for the debate.

this long and arduous task in 1805, he was appointed Attorney-General of Maryland. His services as associate of James Monroe in negotiating a treaty with Great Britain have been narrated in Volume I., page 318. He remained as minister to Great Britain until 1811. Returning to America he heartily supported Madison's administration during the War of 1812, and commanded a force of volunteers at the battle of Bladensburg, where he was severely wounded. He served a year (1811) in the Maryland Senate, and in 1812 was appointed Attorney-General of the United States, keeping, however, his residence in Baltimore and continuing an extensive law practice. When Congress in 1814 passed an act requiring Cabinet ministers to live in Washington, he resigned his Federal office. In 1815, he was elected to Congress, and in the following year was sent abroad as minister to Russia and envoy to Naples, the latter mission being to prosecute American claims for seizures made in 1809 under the reign of Murat. He was unsuccessful in this attempt. He returned to America in 1818, and was elected to the Senate in 1820. He died in 1822.

Says Nathan Sargent, in his *Public Men and Events* (1875):

"The most eloquent and distinguished man in his day, if we may credit his contemporaries, was Mr. Pinkney of Maryland. His fame has descended to us in its fulness of glory as an orator, statesman, and advocate.

"He was, at the time of his sudden death, a member of the United States Senate, and admitted to be there unrivaled in the power and beauty of his forensic efforts. But he spoke . . . only on some important . . . question, and then only after the most laborious and thorough preparation, not merely in regard to the arguments . . . but

. . . those passages, including the peroration, which were intended to electrify his audience. . . .

"It is related . . . that he was desirous that [these] passages be thought to be the impromptu inspirations of his genius, and not the studied productions of midnight toil, and that, to give the appearance of this, he would sometimes resort to the ruse, on the morning of the day he was to speak, . . . of riding . . . into the country, returning and entering the Senate . . . whip in hand, booted and spurred, with the appearance of haste, just at the moment he was expected . . . to speak, as if he had forgotten that he was . . . to occupy the floor, and had come wholly unprepared, and at once go on with his splendid display of oratorical power.

"On the great Missouri question Mr. Pinkney took the lead in the Senate in favor of the Compromise, opposed to Rufus King . . . His speech . . . was one of the greatest efforts of his legislative life; but another, which he made many years before, denouncing slavery and slave-holders for maintaining it, was the best answer to it. . . .

"He was not less distinguished for his exquisite taste in dress, the faultless cut of his garments, the delicate tint of his gloves, the gossamer fineness of his ruffles and pocket-handkerchiefs . . . than he was as an eminent lawyer [and] able statesman."

Governor Benjamin F. Perry, of South Carolina, in his *Sketches of American Statesmen* (1887), records that Governor Hutchings G. Burton, of North Carolina, related to him his sensations as an auditor of Pinkney's speech on the Compromise.

"Burton was at the time a member of the House of Representatives. There was great anxiety to hear Pinkney, and the Senate chamber and galleries were crowded to excess. Burton sat down on the carpet, the only seat he could get. He said the first part of Pinkney's speech was entirely rhetorical and fanciful, and he thought to himself

what a fool he was to be sitting in the middle of the Senate Chamber on the carpet listening to such a speech. But soon afterwards Pinkney entered into the argument of the case, and he was thrilled and overwhelmed by his logic and eloquence."

After a hard-fought battle lasting a month the Senate passed the bill by 23 votes to 21 with a "rider" admitting Missouri without restriction of slavery.

The Missouri Compromise. Senator Jesse B. Thomas [Ill.],¹ representing the wishes of the people of Missouri, who cared little about restriction of slavery outside of their jurisdiction, then proposed a compromise in the Missouri section of the bill, which was the admission of the State with slavery, and the adoption of its southern boundary as a line north of which all other territory should be free. This was passed on February 17, 1820, by a vote of 34 to 10, the extreme pro-slavery Senators voting in the negative.

In the meantime the House, beginning on January 24, had been debating the Missouri bill with great fervor, the Tallmadge amendment having been re-introduced. The Thomas compromise was now proposed, adding a new issue which gave fresh fuel to the exhausted controversy. On February 28, by a vote of 97 to 76, the Senate Maine bill, with the Missouri "rider," was disagreed to. The Senate refused to recede, and a conference committee of both Houses was appointed. On March 2 this committee reported that the Senate should recede from its union of the Maine and Missouri bills; that the House should give up the Tallmadge proviso; and that both chambers should unite

¹ Thomas was a lawyer who had been a delegate to Congress from Indiana Territory, 1808-9, and Senator from Illinois from 1818. His last year in the Senate was 1829.

in admitting Maine as a free State, and Missouri without the restriction of slavery, but with the condition of the Thomas compromise. The House struck out the Tallmadge amendment by a vote of 90 to 87; adopted the Thomas compromise by a vote of 134 to 42 (the negative votes being cast by extreme pro-slavery Representatives); and adopted a proviso to secure the return of fugitive slaves from every part of the Louisiana Purchase. Similar action was taken by the Senate. The bills went to President Monroe, who signed the admission of Maine as a free State on March 3, 1820, and, after receiving the unanimous opinion of his Cabinet that the Thomas compromise was constitutional, on March 6 signed the bill admitting Missouri without restriction of slavery, and adopting the compromise that slavery should be excluded from all other territory north of its southern boundary. Missouri was ordered to prepare a State constitution for approval by Congress before admission.

The debates in the House extended from January 26 to March 2, 1820. On the first date, Henry Meigs [N. Y.]^x introduced a bill devoting the public lands to the colonization of freedmen. In his remarks on the bill he referred to the proposition that was "in the air," to divide the free from the slave territory west of the Mississippi by a line of latitude.

"What, sir! is it possible, then, that one half of us can be rationally and argumentatively on one side of the parallel and the other half on the other? I did believe that the truths of philosophy, that reason, that the *Principia* of Newton were the same in every latitude, in every climate, and on every soil of this globe."

^x Meigs was a lawyer and a veteran of the War of 1812. He was a member of Congress for only one term—1819 to 1821.

On February 4 Benjamin Hardin [Ky.]¹ suggested that what was essentially the Compromise be adopted in the admission of Missouri.

Joseph Hemphill [Pa.]² opposed the Compromise. With clear prescience he said:

"Under the circumstances it will be impossible to compromise a question of this character. A compromise usually has for its basis mutual concessions, which are equally obligatory; but, if we should pass a law excluding slavery from the remaining territory, where would be the security that another Congress would not repeal it?

"It is true that a compromise was made on slavery at the adoption of the Constitution, but it was of an obligatory nature, and it arose out of circumstances that could not be controlled. The Union was necessary to save us from domestic discord and foreign ambition; we were then in our infancy; but, now that our national strength bids defiance to any nation, where is the necessity of deceiving ourselves and our constituents by this mere pretense of a compromise?

"Gentlemen on the other side tell us that, if the restriction is carried, the Union will be dissolved. I have a more exalted opinion of the patriotism of the South; they will never cause American blood to be spilled, unless for reasons that would justify them in the eyes of the world; and, in the language of Mr. Jefferson, 'the Almighty has no attribute that would side with them in such a cause as this

¹ Hardin was a native of Pennsylvania. Removing to Kentucky, he served in its Assembly from 1810 to 1811, and later from 1824 to 1825, and in its Senate from 1828 to 1832. He was a member of Congress from 1815 to 1817; 1819 to 1823, and 1833 to 1837. He was Secretary of State for Kentucky from 1844 to 1847, and a member of the State Constitutional convention in 1849.

² Hemphill was an eminent lawyer who served in Congress from 1801 to 1803, from 1819 to 1827, and from 1829 to 1831. His opinions were frequently quoted on constitutional law in after times.

would be.' Has it come to this, that the extension of slavery is to be considered as one of the pillars of our liberty? This, indeed, would be a political paradox."

John Sergeant [Pa.]¹ spoke against compromise as forbidden by the principles of both sides of the controversy.

For his part, he would never agree to the admission of Missouri with slavery. Once introduced there, the hope of extinguishing it by emancipation was destroyed. Reduction in the value of slaves was the only inducement that would ever effect the abolition of the evil institution.

Mr. Philip B. Barbour [Va.] confined his remarks to the subject of restriction of slavery, which he opposed. One of his points is worthy of record. It was in opposition to a statement of Mr. Hemphill that a man had no vested right in an unborn human being.

Property in the parent implies property in the progeny. The maxim, *partus sequitur ventrem*,² is as old as the civil law; it is founded on the immutable principle that the owner of the source is the owner of the products. He who owns the land owns all the fruit it produces. If, then, you admit my property in the parent, you cannot deny it in the child. If you deny my vested interest in an unborn human being, you may go a step further and deny it in those who now exist. Assume this principle, and you need not wait for futurity to do this great work of emancipation. You may say at once to every bondman in the United States: "You are free."

¹ Sergeant was a lawyer of ability who served in Congress from 1815 to 1823, 1827 to 1829, and from 1837 to 1841. He was nominated as Vice-President by the National Republican party in 1831, Henry Clay being the nominee for President.

² The offspring follows [the condition of] the mother.

Charles Pinckney [S. C.], who had taken a prominent part in the Constitutional Convention,¹ spoke with authority upon the intention of that body in its compromise on slave representation.

The concession was not, as had been claimed, made by the North, but by the South. The North, in the formation of the Articles of Confederation, had the option of making the basis of apportionment for revenue, either population or the value of lands and improvements. They chose the former to escape the greater burden which would be laid upon them by choosing the latter. The rule was retained by the Constitutional Convention for representation as well as for revenue.

The expectation of the Convention was that Federal revenue would come from direct taxation. Instead, it has been derived from indirect—tariffs and excises. Of this system the manufacturing North gets the benefit, while the agricultural, consuming South bears the burden. And yet gentlemen of the North complain of representation as unjust and unequal—that they have not the return made them which they expected by taxing the slaves. Some writers on political economy are of opinion that representation ought to be based equally on population and taxation. This is the rule in South Carolina as to the House of Representatives.

He also upheld Mr. Barbour in his contention² that the Ordinance of 1787 was improperly passed.

The old Congress at the time had dwindled to almost nothing, and had lost the confidence of the people; only seven or eight states were represented, and that by a total of but seventeen or eighteen delegates; it was known that

¹ See Volume I., Chapter VIII.

² See page 138.

the Constitution was agreed to in its essentials, and a promulgation of the new government was expected.

Was it even decent in them (not to say lawful or constitutional) to pass an ordinance of such importance?

John Tyler [Va.], in a speech of high rhetorical quality, opposed restriction of slavery in Missouri and any compromise on the subject.

Sketch of Tyler. Tyler was graduated in 1807 from William and Mary, where he displayed a fondness for history. He was admitted to the bar in 1809, and two years later entered the Virginia legislature. In 1812 he introduced a resolution censuring the two Senators of the State for advocating rechartering of the United States Bank. In 1813 he took part, as captain of militia, in the defense of Richmond. In 1816 he was elected to Congress, where he served until 1821. He opposed internal improvements, and (as premature) recognition of the South American republics, and was a member of the committee to inquire into the condition of the United States Bank, speaking in favor of the inquiry. He spoke and voted against the Missouri Compromise. He then served a term in the State legislature, and was an energetic chancellor of the University of Virginia. In 1826 he was elected Governor of the State. In 1827 he entered the Senate, where he opposed the 1828 "tariff of abominations." He was a member in the following year of the Virginia constitutional convention. In 1832 he supported Jackson for President (chiefly because of his veto of the Maysville Turnpike bill). He disapproved of Nullification as unconstitutional and impolitic, and at the same time regarded Jackson's proclamation against it as tending to a "consolidated" government. Holding these views

he attempted to mediate between the two parties, and so supported the compromise tariff bill of 1833. In the same year he opposed the "Force Bill" giving the President extraordinary power to enforce the tariff act, and, the other opponents absenting themselves, cast the sole vote against it. In 1834, on the question of removing Federal deposits from the United States Bank, he broke with the Administration, believing that President Jackson was unconstitutionally increasing the powers of the Executive. He voted for Clay's resolution to censure the President. In 1835 he resigned from the Senate rather than obey the instruction of the Virginia legislature to vote for expunging Benton's resolution of censure against Jackson. While the question of gagging Abolition petitions came to a vote after his resignation, he had expressed himself against it, as denying the sacred right of petition. In 1836 he was nominated by the "State-rights Whigs" for Vice-President, Hugh L. White [Tenn.] being the nominee for President. His popularity is shown by his receiving forty-seven electoral votes, while White received only twenty-six. In 1838 he became president of the Virginia Colonization Society. In the same year he reentered the Virginia legislature. In 1839 he contested with William C. Rives election to the Senate. A deadlock ensued and, before it was decided, Tyler was nominated for Vice-President on the Whig ticket, General William Henry Harrison being the nominee for President. His nomination was due to the desire of the convention to catch the votes of State-rights men dissatisfied with the Van Buren administration. To this end no platform was adopted. The plan was successful, and Harrison and Tyler were elected.

On the Missouri question Senator Tyler said:

"What will be the consequences if you persist in this measure [restriction of slavery]? A sectional feeling is already generated; a geographic line is drawn. Tell me not of that policy which shall divide the people of this country by local feelings and prejudices. This is the bane of the Republic, the greatest of all dangers to the Union. Take not my poor word for it. Nay, disregard the valedictory admonitions of him who has been called the Father of his Country. But can you, or will you, close your eyes to the lights of experience? United Greece stood up successfully against the mighty power of Xerxes. But Sparta wished to domineer over Athens, and their intestine feuds opened the channel to that flood of vandalism which deluged Greece and obliterated all trace of freedom. I beseech gentlemen to pause, lest they produce a similar division of sentiment in this happy land. What if you impose the restriction, and Missouri, instead of submitting, shall sever herself from the Union. Will you then retract? How much more honorable to do it now! Or do you mean to persist in your object at all hazards, and, if she prove refractory, reduce her to submission? Do you believe that Southern bayonets will ever be plunged in Southern hearts?

James Stevens [Ct.]^x appealed to the House to compromise the question:

We have now arrived at a point at which every gentleman agrees something must be done. A precipice lies before us at which perdition is inevitable. Gentlemen on both sides of this question, in both Houses, have evinced a determination that augurs ill of the high destinies of this country. . . .

And all this in a sacrilegious contest at the end of which no wise man would give a pea-straw for his choice on which

^x Stevens was a member of Congress during only this term. He was appointed postmaster at Stamford, Ct., in 1822.

side to be found, as the victors would have lost all, and the vanquished have nothing left to excite envy. . . .

A failure to compromise at this time, in the way now proposed, or in some other way satisfactory to both parties, would be to create ruthless hatred, ineradicable jealousy, and a total forgetfulness of the ardor of patriotism, to which we owe under Providence more solid national glory and social happiness than ever before possessed by any people, nation, kindred, or tongue under heaven.

In accordance with the requirement of Congress, Missouri, on July 19, 1820, had adopted a constitution and presented it to Congress for ratification. This contained a provision obliging the legislature of the new State to pass a law against the entry of free negroes. To this the Northern Senators and Representatives at the next session of Congress objected as an infringement upon the national Constitution, which declares (Article iv., section 2) that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

Debate sprang up more fiercely even than before, and continued for several weeks. Then Henry Clay, Speaker of the House, who had taken little part in the preceding debate, proposed a conference of committees from the Senate and House. This was held, and the joint committee recommended the Senate bill, admitting Missouri with the Thomas compromise, and providing that the State legislature should pass an act that it would never exclude a citizen coming from another State from the privileges and immunities to which he was entitled under the United States Constitution. The measure was adopted by both chambers, on February 28, 1821, and approved by President Monroe on

March 2, putting an end to the portentous struggle of two and one half years' duration.

Clay's part in the closing contest (for, as has been noted, he did not enter to any extent in the debate on the Thomas compromise) earned for him the title of "Pacifier," and caused the people twenty-nine years later to bring him back, an old man, from his retirement, to the Senate to form the Compromise of 1850 on the same vexed question of slavery.

CHAPTER V

THE RIGHT OF PETITION

[*The Abolition Movement*]

The Colonization Society—Debate in the Senate on Government Aid to It: in Favor, Ezekiel F. Chambers [Md.]; Opposed, Robert Y. Hayne [S. C.]—Sketch of Chambers—The Abolition Movement—Sketches of Benjamin Lundy and William Lloyd Garrison—Petitions to Abolish Slavery in the District of Columbia—House Debate on Gag Law against Receiving Them: in Favor of Law, Leonard Jarvis [Mo.], Henry L. Pinckney [S. C.], Franklin Pierce [N. H.], Waddy Thompson [S. C.]; Opposed, Henry A. Wise [Va.], Francis Granger [N. Y.], John Quincy Adams [Mass.]—Sketches of Debaters—House Debate on Censure of Adams for Presenting Petitions from Negroes: in Favor, Mr. Thompson, Dixon H. Lewis [Ala.], Francis W. Pickens [S. C.]; Opposed, Mr. Adams, Churchill C. Cambreleng [N. Y.], Caleb Cushing [Mass.]—Sketches of Pickens, Cambreleng, and Cushing—Abolition Speech of William Slade [Vt.]—Sketch of Slade—Secession Resolutions by R. Barnwell Rhett [S. C.]—Sketch of Rhett—Abolition Petitions and Resolutions Ordered to be Tabled Unread—Proposal in Senate to Exclude Abolition Publications from the Mail—Vice-President Van Buren Votes for It—Sketch of Van Buren—Speech of Daniel Webster [Mass.] against It—Debate in Senate on Suppression of Abolition Movement in the Free States: in Favor, John C. Calhoun [S. C.]; Opposed, John P. King [Ga.]—Sketch of King.

FOR nearly a decade the Missouri Compromise removed slavery as a subject of discussion in Congress. Then controversy arose with old-time fervor upon the same issue which had aroused such sectional

feeling in the discussion of the Slave Trade and the Fugitive Act of 1793—the acceptance of anti-slavery petitions.

The Colonization Society. As early as 1801 President Jefferson and Governor Madison of Virginia entered into correspondence on the subject of colonizing free negroes out of the country as a constitutional step toward solving the slavery question. A number of philanthropists began to agitate the proposition, and in 1816 a Colonization Society was organized at Princeton, N. J. A few years later it was reorganized as the National Colonization Society at Washington, D. C., with Bushrod Washington, a nephew of General Washington, and an Associate-Judge of the Supreme Court, as president. It published as its organ *The African Repository*. The Society grew rapidly, and by 1827 it had branches in almost every State, and was supported by distinguished statesmen of every political complexion, including Madison and Clay.

In 1821 a region on the west coast of Africa was purchased and named Liberia, the chief settlement being called Monrovia for President Monroe. On February 7, 1827, the Society through Ezekiel F. Chambers [Md.]¹ presented a memorial to the Senate asking government aid to send free negroes to Liberia.

¹ Chambers was a graduate of Washington College, Md., a lawyer, and a brigadier-general of militia in the War of 1812. Elected to the State Senate in 1822, he applied himself to the reform of abuses in the execution in the State of the Fugitive Act. In 1826 he was elected to the United States Senate, where he became known as one of its ablest debaters. In 1834 he was appointed chief judge of the second district and a judge of the court of appeals in Maryland, and held these offices until 1857, when they became elective. In 1850 he was a member of the Maryland constitutional convention. Yale conferred upon him the degree of Doctor of Laws in 1833.

Senator Chambers spoke not only of the humanitarian work of the Society, but of its benefit to the country in ridding it of free blacks.

They are a degraded, miserable race who cannot become citizens, and do not add to our physical energies since they are averse to labor. Besides, they exert a positively deleterious influence, the corrupting poison of their habits and example infecting the slaves. Legislatures in various slave States have approved the purpose of the Colonization Society, and Georgia has delivered to it for disposition captives taken from the slave traders.

Senator Robert Y. Hayne [S. C.] opposed the memorial as hostile to the Southern slave interest.

The Society was in the hands of Abolitionists, who proclaimed that their ultimate object was universal emancipation. Does not every Southern man know that wherever the Society has invaded our country a spirit of hostility to our institutions has sprung up?

Passing over this indirect evil, what would be the direct effect of the adoption of the Society's policy by the Federal government? National funds are to be appropriated for its purpose. Granted the power to do this, other temptations can be offered to owners to give up their slaves. The Society will go into the market to buy our slaves. Can you touch this mass of a now contented, happy, and useful class of beings without disquieting their minds, creating dissatisfaction, destroying their usefulness, and bringing ruin on the whole community? If the government becomes a purchaser of slaves, with the millions in its treasury it can fix its own terms of purchase. The insidious movements of colonization and abolition societies, the distribution of their literature, and incendiary resolutions, such as in our time have been offered in Congress and the State legislatures, will also contribute to reducing the value of our constitu-

tional property to any standard this government chooses to prescribe. The perpetual agitation of emancipation in Great Britain has cut the price of lands in the West Indies in half, and of slaves to ten pounds (\$50.) per head. Should the British government choose to purchase these slaves, it would be easy to reduce their value to nothing by shaking public confidence in that species of property.¹

The only security of the South lies in the want of power in the Federal government to touch the subject of slavery at all. This is the very "Ark of the Covenant" in which alone we will find safety.

There were, as Senator Hayne said, many Abolitionists in the Colonization Society. Chief of these was Benjamin Lundy.

Sketch of Lundy. A New Jersey Quaker, Lundy went at the age of nineteen to Wheeling, in western Virginia, where he became a saddler. He removed thence to Ohio, and, in 1815, at St. Clairsville, founded an anti-slavery association called the Union Humane Society, and became a contributor of anti-slavery articles to the *Philanthropist*, a newspaper published in the neighboring town of Mt. Pleasant. In 1819 during the Missouri agitation he went to that Territory and devoted himself to exposing the evils of slavery in the press. Returning to Mt. Pleasant he established in 1822 a little monthly with the large title of *The Genius of Universal Emancipation*, an expression from an eloquent peroration of the Irish orator, Daniel O'Connell. He soon moved his press to Jonesborough, Tenn., and thence, in 1824 to Baltimore, where he turned his

¹ Thomas Clarkson and William Wilberforce were the leaders of this British agitation. The British government in 1833 fulfilled the anticipation of Senator Hayne by providing for progressive emancipation at a fixed price in the West Indies. By 1839 slavery was entirely abolished there.

paper into a weekly. Becoming connected with the Colonization Society he traveled to Haiti in 1825 to arrange with the government of that "Black Republic" for the settlement there of free negroes. In 1828, he lectured in New England on slavery, and met William Lloyd Garrison, whom he afterward took into partnership on his Abolition paper, *The Genius*. In the winter of 1828-29 he was assaulted in Baltimore by a slave-dealer for alleged libel. It is significant of the anti-slavery sentiment of the local courts that it was Lundy who was censured for the affair, and he was compelled to remove his paper from Baltimore. He took it first to Washington, where he changed its name to *The National Inquirer*, and finally to Philadelphia, where it was merged in *The Pennsylvania Freeman*. In 1829 he went a second time to Haiti, taking with him on the trip several freedmen, whom he settled there. In 1830 he visited the Wilberforce Colony of fugitive slaves in Canada, and then went to Texas to establish a similar settlement there under the Mexican government which forbade slavery. This plan was not consummated owing to the revolution which created the slave-holding Republic of Texas in 1836. In 1838 Lundy's printing office in Philadelphia was destroyed by a pro-slavery mob. He then removed to Lowell, Ill., but died before he reestablished there his paper.

Not only was Lundy the first American to publish an anti-slavery paper and deliver anti-slavery lectures, but he was also the originator of the movement among anti-slavery advocates to buy only free-grown produce.¹

¹ This use of an economic remedy for an industrial evil, while it was not successful in the case of slavery, has since been adopted with some results by Trade-unionists in their device of the "union label."

Sketch of Garrison. William Lloyd Garrison, who followed in the path of Lundy, and, by his greater genius, made himself the supreme figure in the Abolition movement, was early apprenticed to a printer of his native town, Newburyport, Mass., and, at the age of seventeen, began to contribute to the paper, the *Newburyport Herald*, on which he was working. In 1824, at the age of nineteen, he became its editor, and in 1829 he began jointly to edit *The Genius of Universal Emancipation*, of Baltimore, with Lundy. His expression of abolition opinions caused him to be imprisoned for libel, but he was released by friends paying his fine. He then delivered anti-slavery lectures in New York City and other places. Returning to Boston he founded in 1831 *The Liberator*, which he continued until slavery was abolished, on which occasion his friends retired him with a gift of \$30,000, as he was penniless. In his first issue he announced.

"I am in earnest. I will not equivocate; I will not excuse; I will not retreat a single inch; and I will be heard!"

Garrison visited England three times, and, on his first return, in 1833, organized the Anti-Slavery Society, becoming its president. He died in 1879 in a house on Union Square, New York, to the outer wall of which is affixed a tablet, designed by Richard F. George, son of Henry George, bearing Garrison's portrait in relief.

Garrison published *Sonnets and Other Poems* in 1847. Whittier and Lowell wrote poetic tributes to him. There are numerous biographies of Garrison, one being by the English publicist Goldwin Smith (1892).

Wendell Phillips, the great orator of the Abolition movement, said of him:

"He never trifled, made no account of sharp points or minute particulars, was seldom humorous, not often sarcastic, and cared little for studied phrases. [Yet] there are more epigrammatic and pithy sayings in his speeches . . . which will pass into literature than can be culled from the orations of Webster. His tone was that of a grave . . . indictment. . . . An intense earnestness melted every one into the hot current of his argument or appeal, and the influence, strong at the moment, haunted the hearer afterward, and was doubled the next day. He was master of a style of singular elevation and dignity. . . . The "Declaration of Sentiments" by the convention which formed the American Anti-Slavery Society, and that Society's statement of its reasons for repudiating the United States Constitution,^z have a breadth, dignity, and impressive tone found in few, if any, of our state papers since the Revolution."

Speaking of Garrison's advanced ideas, for, when slavery was abolished he advocated such reforms as woman suffrage, Lowell says:

"Garrison is so used to standing alone that, like Daniel Boone, he moves away as the world creeps up to him, and goes farther into the wilderness."

English writers have rated Garrison even higher than have American. Harriet Martineau said of him:

"Garrison will be recognized hereafter, not only as at present,—as the Moses of the enslaved race, leading them out of their captivity,—but as more truly the founder of the Republic than Washington himself."

The Abolition Movement. The organization at Philadelphia in 1833 of the American Anti-Slavery

^z In a resolution of the Anti-Slavery Society in 1843 Garrison said: "The compact which exists between the North and the South is a covenant with death and an agreement with hell."

Society with the avowed purpose of carrying the war against slavery into the slave States, incensed the South to the highest degree, so that, while before this date there had been movements within these States to abolish slavery by State legislative action, these at once ceased, and any proposal to this effect was suppressed, often with violence to the proposer. Only the year before there had been a long debate in the Virginia legislature over emancipation of slaves, in which slavery was indicted in the strongest terms, yet without creating any animosity. It is a question, therefore, whether the Abolition movement was a help or a hindrance to the anti-slavery cause, seeing that emancipation was finally accomplished according to the Republican program, which was to oppose merely the *extension* of slavery, and to use constitutional abolition only when the rash act of secession by the South afforded opportunity for so doing.

Slavery in the Federal District. The first Congressional attempt to secure the abolition of slavery in original territory of the United States was in the case of the District of Columbia, over which Congress had sole power, limited only by general restrictions in the Constitution and conditions of the grants of the territory from Maryland and Virginia.¹

During the session of 1828-29 a petition of over 1,000 citizens of the District was presented to Congress reciting the abuses of slavery therein, and praying for gradual emancipation. An inquiry into the subject was ordered, but nothing came of it.

¹ At this time the District included what had been Washington County, Md., 64 square miles, and what had been Alexandria county, Va., 36 square miles. No public buildings having been erected in the Virginia cession, in 1846 it was receded to the State.

Other petitions of a like nature were presented from time to time without effect, and on January 13, 1836, Leonard Jarvis [Mo.]¹ moved in the House that the subject of emancipation in the District ought not to be entertained by Congress, and that petitions to this effect should be laid on the table without being printed or referred. A committee was appointed by an overwhelming vote to draft a bill of this nature. Henry A. Wise [Va.]² refused to vote, on the ground that:

Affirming a proposition is to admit that it needs affirmation, which was not the case in the present subject since Congress has no constitutional power either to affirm or deny any proposition whatsoever in regard to slavery in the States.

On May 18, the report of the committee was presented by its chairman, Henry L. Pinckney [S. C.].³

It declared:

(1) Congress has no constitutional authority to interfere with slavery in the States; (2) it ought not so to interfere in the District of Columbia; and (3) that consideration be refused to petitions and resolutions on slavery.

The first section was adopted by 182 votes to 9; the second, by 132 votes to 45; the third, by 117 to 68. When the name of John Quincy Adams was called on the third resolution the aged ex-President arose, and, refusing to vote, said:

¹ Jarvis served in Congress from 1829 to 1837.

² Wise, a lawyer, served in Congress from 1833 to 1844. He was minister to Brazil, 1844-47; delegate to the Virginia constitutional convention in 1850; and governor of the State from 1856-60. As governor he was energetic in suppressing the John Brown raid.

³ Pinckney was a lawyer, who served in Congress from 1833 to 1837.

"I hold the resolution to be a direct violation of the Constitution of the United States, the rules of this House, and the rights of my constituents."

He then sat down amid loud cries of "Order!" from all parts of the hall.

Sketch of Adams. The patriotic career of Mr. Adams is indicated by brief data of the public positions which he held. A son of the great statesman John Adams, he was prepared for the important positions which he was to hold by general education at Harvard, and the professional study of law, and was inducted into his country's service as secretary of his father in his diplomatic missions. He himself became successively minister to Holland (1794-97) and minister to Prussia (1797-1801). He was Senator from Massachusetts (1803-08); professor of rhetoric at Harvard (1806-09); minister to Russia (1809-14), in which position he acted as a negotiator of the Treaty of Ghent (1814) terminating the Second War with Great Britain; minister to Great Britain (1815-17); Secretary of State (1817-25); President (1825-29); and member of the House of Representatives (1831-48). He died on the floor of the House in 1848.

Of all American statesmen the second Adams was the least bound to party, contrasting in this with his father who was an intolerant Federalist in power, and a bitter one in defeat. Reared in Federalist sentiments, the son nevertheless supported Jefferson's Republican Administration, upholding the Louisiana Purchase, but asking that a Constitutional Amendment be passed to legitimize it.

When he became President, he departed from Jeffersonian principles in the matter of a protective tariff, and

antagonized the Republican leaders, thus wrecking for a time his old party almost as effectively as his father had ruined the Federalist party.¹

From Adams's Administration developed the "National Republican" party, which shortly became known by the name of "Whig." And, in running as the Whig candidate for Congress, Adams accepted the nomination also of the Anti-Masons, whose intolerant class principles were wholly at variance with the old Republican doctrine. In fact, however, he was the representative of the new anti-slavery party which was arising.

Senator Benton said, in his eulogy of Adams in the Senate, following his death:

"In this long career of public service Mr. Adams was distinguished not only by faithful attention to all the great duties of his stations, but to all their less and minor duties. He was not the Salaminian galley to be launched only on extraordinary occasions, but . . . the ready vessel always launched when the duties of his station required it, be the occasion great or small. . . . Punctual to every duty, death found him at the post of duty."

Of ex-President Adams's character as a debater Hugh McCulloch, in his *Men and Measures of Half a Century* (1888), writes:

¹ When the Republicans again came into power in the following Administration of Andrew Jackson, after floundering along for a time under such humorous popular designations as "Loco-focos," they finally accepted the name of Democrats. Nevertheless the name Republican was retained as the official title of the party down to its adoption in 1854 as the name of their opponents on the issue of extension of slavery. Indeed, such leaders as Senator Stephen A. Douglas refused to relinquish the title thereafter, stigmatizing the Opposition as "Black Republicans" to distinguish them from what they considered to be the true breed.

"Mr. Adams's speech upon the right of petition in 1837 was one of the most effective and triumphant speeches ever made in Congress. The great speech of Webster in reply to Hayne was not listened to with more interest. Mr. Adams was one of the most remarkable men that this country has produced, and in no respect was he more remarkable than in the fact that he became a great off-hand speaker after he left the Presidency and had reached the period of life where there is usually a decline instead of improvement in intellectual vigor. . . . He was a free lance, and a hard hitter. With his armor always on, he was never unprepared for a tilt with any one who was bold enough to enter the lists. His great learning and command of language made him a most formidable and dangerous antagonist. Pugnacious by temperament, he loved a fight better than his friends, of whom there were few, and with none was he ever long in perfect accord. . . . He was hated as few public men have been, but his great ability, perfect independence, and thorough uprightness, commanded the respect even of those who hated him. In the great speech to which I have referred he achieved the very highest reputation as a debater and orator. . . . Learning and argument and the bitterest satire were so combined [in it] as to overwhelm his opponents, and secure for himself the name of the 'Old Man Eloquent.'"

The "Gag Law." In the debate on the "Gag Law," as the report of the Pinckney committee was called by the anti-slavery men, the chief speakers in its favor were, besides the chairman, Franklin Pierce [N. H.] and Waddy Thompson [S. C.]. Francis Granger [N. Y.] stood with ex-President Adams against the measure.

Sketch of Pierce. Pierce was an ardent Democratic partisan of the class denominated by John Randolph "doughfaces"—*i. e.*, Northern men with Southern principles—and was therefore marked for preferment by

the Southern leaders of the party. He was graduated in 1824 from Bowdoin College, Me., where he formed a life-long friendship with Nathaniel Hawthorne, who became his biographer. In 1827 he was admitted to the bar, and began practice in his native town of Hillsborough, N. H. He served in the State legislature four years (three as Speaker), and in 1833 entered Congress. He sustained the administration of President Jackson, especially opposing internal improvements. In 1837 he was elected to the Senate, being barely of the constitutional age when he took his seat. He supported the measures of the Van Buren administration, and opposed those of the Whigs in the succeeding ones of Harrison and Tyler. In 1842 he resigned his seat to engage in private law practice. Refusing repeated offers of high Federal and State offices, he nevertheless actively engaged in building up the Democratic organization in his State, opposing in particular the anti-slavery leader, John P. Hale, candidate for United States Senator. A debate between the two in Concord, N. H., in 1845 on slavery is memorable in the annals of the State. Hale won his election by a coalition of Whigs and Free-Soil Democrats.

Pierce advocated the annexation of Texas, preferably without slavery, but with it if necessary. When war with Mexico began in 1846 over the annexation, he enlisted as a private, and began to study military tactics with such success that he was appointed, first colonel and then brigadier-general of volunteers. He served ably and gallantly through the war.

In 1850 he presided over the New Hampshire constitutional convention, opposing the abolition of the requirement that none but Protestants should hold

office. Though the amendment was not adopted, the restriction was practically disregarded.

He upheld the Compromises of 1850, assuring Daniel Webster, who was also their supporter, that, if his own party rejected him on this issue, which was becoming the dividing one of the country, the Democracy would "lift him so high that his feet would not touch the stars." Pierce was the "dark horse" of the Democratic National Convention of 1852, being selected after a deadlock between statesmen of greater ability and national fame, such as Buchanan, Douglas, Cass, and Marcy, as likely to secure the support of Whigs of the Webster following, who were dissatisfied with General Scott, the candidate of the party. This expectation was fulfilled, and Pierce was overwhelmingly elected. His career as President will partly transpire in the following pages. After South Carolina seceded, he opposed coercion of the State, corresponding with Jefferson Davis to this effect, but on the firing upon Fort Sumter he urged the people to sustain the United States government against the Confederacy. However, he was considered a chief of the "Copperheads" because of his opposition on constitutional grounds to what he considered the arbitrary acts of Lincoln's Administration.

Says *Appleton's Cyclopædia of American Biography*:

"As an advocate he was never surpassed, if ever equalled, at the New Hampshire bar. He had the external advantages of an orator, a handsome, expressive face, an elegant figure, graceful and impressive gesticulation, and a clear, musical voice, which kindled the blood of his hearers like the notes of a trumpet, or melted them to tears by its pathos. He was not a diligent student . . . yet his mind seized at once the vital points of a case, while his ready command of language enabled him to present them

to an audience so clearly that they could not be misunderstood. He had an intuitive knowledge of human nature, and the numerous illustrations that he drew from the daily lives of his . . . auditors made his speeches doubly effective."

Sketches of Thompson and Granger. Waddy Thompson was a South Carolina "Fire-eater." He was a lawyer, a member of Congress from 1835 to 1841, and minister to Mexico from 1842 to 1844.

Francis Granger was an eminent lawyer who had been a New York legislator, and a prominent candidate for Vice-President in 1831. He served in Congress from 1835 to 1837, and from 1839 to 1843, with a short interval in 1841 when he was Postmaster-General.

In the debate on the "Gag Law," Representative Pierce supported the measure as voicing the general opinion of the country.

He was unwilling that any imputation should rest upon the North because of the misguided and fanatical zeal of a comparatively few persons. There was not one Abolitionist in five hundred of the people of his district.

Mr. Adams said that the only proper way to keep the subject of abolition of slavery out of discussion was to refer petitions on the subject to committee, where they would slumber in the "vault of the Capulets."

If you lay these petitions on the table, what will be the consequence? In a large portion of this country every member who votes with you will be left at home next election, and some one will be sent who is ready to receive them.

If the petitions are not received, discussion on the general subject of slavery will ensue, in which every speech made by a Representative north of Mason and Dixon's line will

be an "incendiary pamphlet," to be sent all over the country to inflame it. I will make such speeches myself, for, if I were capable of the craven and recreant course of shrinking from expressing the opinions of myself and constituents, I should go home to their scorn, and they would replace me by a man who represents them more faithfully.

You begin with suppressing the sacred right of petition. You must next suppress the right of free speech in this House, for logically you must offer a resolution that every member who utters an anti-slavery sentiment shall be expelled, or that his speech shall not go forth to the public. You also suppress religious freedom, for in the minds of many honest and honorable men—fanatics if you please to call them—this is a religious question, in which they act under a sense of duty to God, and, however erroneous they may be in their conclusions, it is not for me or this House to judge them.

Mr. Thompson said that he was glad to be informed by Mr. Pierce of the state of feeling on Abolition in the North. He had thought it otherwise.

Let me say, in turn, the North does not know the feeling of the South. Nothing will allay the almost frenzied South but an indignant rejection of these petitions, which will serve as a rebuke to Northern fanatics. But this, it is said, will offend the people of the North. Sir, it is the South not the North, that is injured. Who is it at the North that we are to conciliate? Fanatics did I say? Never before was so vile a band dignified with that name. They are criminals—accessories before the fact of murder, robbery, rape, infanticide.

Mr. Granger indignantly denied this charge.

The petitioners are persons who, looking to the letter of the Constitution, and, finding there that Congress has the

right of exclusive legislation for the Federal District, and not looking beyond to the terms of cession by the States of Virginia and Maryland, naturally expect Congress to deal with the subject. I can never consent that these men should be designated as murderers, or that their names should be mingled with those of the Abolitionists.

Mr. Pinckney considered the question settled.

Congress could not, would not, violate the public faith. It was bound hand and foot. Abolitionism had attained its height, and was now beginning to go down. It will soon disappear entirely if we do not fan the flame ourselves, and if only we allow our friends in the free States to fight the fanatics in their own way.

Censure of Adams. During the next session of Congress, on February 6, 1837, Caleb Cushing [Mass.]¹ presented in the House various petitions from ladies of his State to abolish slavery in the District of Columbia. These, under the "Gag Law" were laid on the table. Mr. Adams then rose and presented a petition from nine "ladies," or women (which term he used became afterwards a subject of dispute) of Fredericksburg,

¹ Cushing was an eminent lawyer. He was graduated at Harvard in 1817, and for two years taught there mathematics and natural science. He was a member of Congress from 1835 to 1843. In 1841, though a Whig, he supported President Tyler, writing an able paper, said to have been inspired by Webster, attacking Clay as a dictator. For this he was denounced by Garrett Davis, a Whig Representative from Kentucky, as inconsistent, and a traitor to his party. See "The Pupil of Machiavelli" in *Great Debates in American History*, vol. xiii., p. 180. He was rewarded by President Tyler by appointment as minister to China, and President Pierce made him Attorney-General. He was chairman of the Democratic Conventions at Charleston and Baltimore in 1860, and, as noted in Volume I., Chapter XII., was an emissary of President Buchanan to the seceded State of South Carolina. He was minister to Spain from 1874 to 1877.

Va., against slavery in the District. Whether it was genuine or not, he said, was not for him to determine. This, too, was laid on the table.

Now this petition was the work of some young bloods in Fredericksburg, Va., who had secured the signatures from colored harlots in the town, and had contrived to have the memorial get into the hands of the aged Massachusetts statesman, with the hope of overwhelming him with ridicule when its true nature transpired. But the old diplomat was too wary to be caught, and the stratagem proved, as we shall see, to be a boomerang, returning to thwack the heads, if not of the conspirators, of the leaders of their party, who vainly attempted to dodge its force amid the enjoyment of the anti-slavery Representatives.

Mr. Adams then said that he had in his hand another petition (which was also the work of the conspirators) on which, before it was presented, he desired to have the decision of the Speaker (James K. Polk, of Tennessee).

It was a petition from twenty-two persons declaring themselves to be slaves. Would the Speaker consider such a petition as coming within the order of the House?

The Speaker said he could not tell until he had the petition in his possession. Mr. Adams then suggested that if it were sent to the Clerk it would be in possession of the House, and the Speaker could examine its contents. The Speaker, saying that this was the first instance, in his recollection, of slaves presenting a petition to Congress, asked for the opinion of the House on the matter. Various Representatives from South Carolina, Alabama, and Georgia thereupon angrily demanded the punishment of Mr. Adams for an infraction of the de-

corum and rules of the House. One declared that the petition should be taken without the House and burned.

' The moment any man should disgrace the government under which he lived by presenting a petition from slaves praying for emancipation, he hoped that, by order of the House, it would be committed to the flames.

The Virginia member from Fredericksburg, who evidently had knowledge of the conspiracy against Mr. Adams, then attempted to spring the trap of the first petition by informing the House of the disreputable character of its signers. He therefore moved that it should be taken from the table and returned to the gentleman from Massachusetts. The expected merriment aroused by this proposal was not sufficient to cause the incensed men from the Cotton States to surmise that there was a hoax afoot. Waddy Thompson hastily framed and presented a resolution that the Speaker bring Mr. Adams to the bar and severely censure him for gross disrespect to the House for "the attempt just made by him to introduce a petition purporting on its face to be from slaves."

Does that gentleman not know that there are laws in all the slave States, and here, for the punishment of those who incite insurrection? If the grand jury of this District has proper intelligence and spirit, he yet may be made amenable to another tribunal, and we may see an incendiary brought to condign punishment.

Dixon H. Lewis [Ala.]^x with Mr. Thompson's acceptance, amended the motion to add, after the word

^x Lewis was a Representative from 1829 to 1843, and a Senator from 1844 until his death in 1848.

"petition," the phrase, "for the abolition of slavery in the District of Columbia," and to add to the statement of the offense that of "inviting the slave population to insurrection by extending to slaves a privilege only belonging to freemen."

Mr. Adams then cast his opponents into confusion by calling the House to witness that he had not presented the petition, but merely asked the Speaker if it could be presented, and that the amender of the resolution of censure had made a gratuitous assumption of the nature of the petition.

If the gentleman from Alabama still shall choose to bring me before the bar of the House, he must amend his resolution in a very important particular, for he probably may have to put into it that my crime has been for attempting to introduce the petition of slaves *that slavery should not be abolished*.

At this there was a sensation in the House of merriment mingled with amazement. The Southerners at last scented the attempt at a hoax, and realized that through their indiscretion they had made themselves its victims. They still suspected that Mr. Adams was its author. Mr. Thompson said that he was sorry to see the air of levity which it was attempted to throw over so serious a matter.

Is it a light thing, for the amusement of others, to irritate, almost to madness, the whole delegation from the slave States?

He then substituted for the resolution another one reciting that the offense of Mr. Adams was *endeavoring* to present a petition from slaves, and trifling with the House by *creating an impression* that the petition was

for the abolition of slavery, when he knew that it was not.

Francis W. Pickens [S. C.]¹ declared that the action of Mr. Adams in regard to the petition was admission that he had communication with slaves, and evidence in law of collusion with them.

Since the slave could be known only through his master, Mr. Adams was indictable, under statute, for abetting insurrection. While the privilege of speech protected a member from being questioned before any other tribunal, it did not exempt him from being questioned before the House.

Churchill C. Cambreleng [N. Y.]² then explained the true nature of the hoax.

The contents of the petition were known in this House before the gentleman from Massachusetts announced them. It was manifestly designed to make him ridiculous by presenting a petition in effect praying for his own expulsion. It came from a slaveholding quarter, and was no doubt designed to insult him for presenting so frequently abolition petitions.

Mr. Pinckney, while accepting the explanation, did not exonerate Mr. Adams for his part in continuing the hoax.

Whether the petition was genuine or not; whether it prayed for the abolition of slavery or the expulsion of the

¹ Pickens was admitted to the bar in 1829 and served in Congress from 1834 to 1843. He became minister to Russia, 1858-60, and a Confederate governor of South Carolina.

² Mr. Cambreleng was a merchant of New York City. He served in Congress from 1821 to 1839. He became minister to Russia in 1840, returning to America the following year.

gentleman himself; and whether the gentleman was in jest or earnest, his conduct was unquestionably reprehensible, and ought to be visited with the severest censure of the House. If the petition was genuine, it was an indignity to the House to attempt to present it. Does not the gentleman know that the right of petition attaches only to the free white people of the Union, and that slaves can be heard in a legislative body only through the agency of their owners? But if the petition was a hoax, then the conduct of the gentleman was still more unjustifiable. It was adding insult to injury. He may, if such is his disposition, enjoy this joke and this scene, but farces of this kind neither suit the humor of the slaveholding States, nor comport with the character and dignity of the legislature of the nation.

The Southerners were not yet cured of their fatuity. A Virginia Representative now moved to modify the resolution of censure by charging that the offense of Mr. Adams was giving *color* to the idea that slaves have the right of petition, and of his readiness to be their organ. Mr. Thompson accepted the modification. There was more fiery talk about not submitting to the "outrageous course of things." Some Southerners proposed leaving Congress and going home. Another, however, said:

"No, let us stay, and resist the insolence of the North, and still, even if it results in passing unconstitutional acts to rob us of our property, to murder our wives and children, not desert our country and relinquish it to fanatics. We have a common interest in this government, a common title in this capital; it bears the name of an immortal Southerner. Shall we ever surrender it? Never, until this fair city is a field of Waterloo, and this beautiful Potomac a river of blood!"

Mr. Cushing arose to defend the right of petition.

Gentlemen talk of these great fundamental rights—freedom of speech, of opinion, of petition—as if they were derived from the Constitution of the United States. I scout such a doctrine. If there were a drop in my veins that did not rebel against the sentiment, it would be bastard blood. [Here the speaker indulged in personal bombast about his descent from “king-killing Roundheads,” and his readiness, if need arose, to flee for liberty to the Western wilderness and live on cold water and a handful of parched corn.]

I disdain to hold these rights by any parchment title. The people of Massachusetts—of every State in the Union—came into it in full possession and fruition of these rights. All that the Constitution does is to provide that no power on earth shall alter, abridge, or abrogate them. We hold them by a higher and broader charter than all the constitutions in the land—the free donation of the eternal God, when he made us to be men. This liberty is native, underived, imprescriptible; and acknowledged in the Constitution itself as preëminently before and above the Constitution.

It seems to be imputed by the South as a crime to a portion of the people of the free States that they entertain sentiments condemned by a majority of the nation. But I appeal to men of the South, who on certain subjects differ with a great majority of their country, if minority opinion *per se* is a crime, either moral or political? Will they apply to themselves the principle which they urge so vehemently against the people of the North? It is impossible by any act of the will to control the conclusions of our mind. It is our duty to spare no means to inform ourselves rightly on the matters which the mind is to judge, but the result is not within the scope of the will. And it is monstrous, therefore, to bring opinions to the bar of legal censure. It is a violation of the inner sanction of a man’s own soul.

It is the acme of tyranny. It was seen in the Inquisition. It is the thing from which our fathers fled to the New World. It has nerved the arm and edged the sword in every contest for liberty which lightens along the history of civilized man.

Do gentlemen suppose that angry attacks on the freedom of opinion, of speech, of the press, of petition, of debate, are likely to check the spread in the United States of that disapprobation of slavery which is but another form, conversely considered, of the love of liberty? Do they deem it possible to smother the opinions and stifle the petitions of the free men of the United States? Ay, and of the free women, too? —for it seems to me a strange idea to uphold, in this enlightened age, that woman, refined, educated woman, is to have no opinion nor right to express that opinion. Do gentlemen soberly think their cause can be strengthened in the country by subjecting to censure a representative of one of the free States because he may have "given color" to the idea that slaves can petition Congress?

The resolution of censure was now modified to read:

That on the ground that Mr. Adams had disclaimed any intention of disrespect to the House, and was of opinion that the petition ought not to be presented, no proceedings against him should be taken, but that it was the sense of the House that the presentation of any petition from slaves "ought to be considered as regardless of the feelings of the House, the rights of the Southern States, and unfriendly to the Union."

The hall and galleries were now filled to overflowing with Senators and citizens of Washington attracted by the news of the exciting controversy. Mr. Adams arose to speak, displaying great feeling. He repudiated the disclaimer imputed to him, especially in regard to the right of slaves to petition.

Petition, sir, is a right belonging to every human creature, which cannot be denied to man in any condition. This, sir, is the principle involved in the inquiry put by me to the Chair—a principle more than recognized by the Constitution, which has declared that this right shall suffer no abridgment whatever! If you now abolish this principle, this first and humblest right given from God to every human being, a limitation will next be put to the right of petitioning, in the fullest extent to which party madness might be inclined to carry it. Will you put the right of craving for help and mercy and protection on the footing of *political privilege*? It is an idea which has not even been entertained by the utmost extreme of despotism. If this House decides that it will not receive petitions from slaves, under any circumstances, it will enroll the name of this country as the first of barbarous nations.

It has been objected that I presented a petition from women of infamous character. But the right of petition does not depend upon character any more than on condition. It cannot be refused to the most vile, the most abandoned, the most infamous. It is an inalienable *human* right. Besides, if these women were infamous, who had made them so? Not men of their own color—it was said that there existed great resemblances between masters of female slaves and their progeny. In this case, perhaps the charge of “infamous” might be retorted upon those who made it. [At this there was “great agitation” in the House, according to the report of the *National Intelligencer*.]

Admitted that character is a test of petitioners, then all the memorials which you do not care to receive will be rejected as coming from “infamous” persons.

I do not propose to go through all the speeches which fell upon me, pouncing like eagles upon a dove, calling me “infamous” with other harsh expressions such as “Expel him!” As Dame Quickly says: “Oh, day and night, but these are bitter words!” But, sir, I must object to the

attempt to find guilty of permitting the House to believe a thing which I had not uttered one word authorizing them even to infer. I could not get up soon enough to set all these gentlemen right, to show them the best way to censure me, and prevent them from running wild, and from bringing forward resolutions in rapid succession which were all contrary to facts.

If the law of South Carolina is a good argument to the gentleman from South Carolina [Mr. Thompson], and if a member of the legislature of that State is made amenable by the grand jury for words spoken in debate, I thank God I am not a citizen of South Carolina! [Great agitation.]

Yet this statement did not bring on the member who uttered it the rebuke of the Speaker. What! Shall we, representatives of the Northern States, be indicted by the grand jury of the District of Columbia as felons and incendiaries for presenting petitions not exactly agreeable to some members from the South? Is that the tenure on which we hold our seats? If it is, I wish the House may pass the resolution that whoever hereafter proposes to hand up a petition from slaves is an enemy to the Union.

We have heard, sir, of the great superiority of Anglo-Saxon blood. What, sir! Is there a drop of that blood flowing in the veins of any man who will subscribe to such a political doctrine as this? How little does such a person understand of the true principles of freedom in relation to the powers of a legislative assembly! What if a member of the British Parliament should tell another that, for what he had said or done in that body, he should be made amenable to the grand jury of the city of Westminster? Sir, it would be too ridiculous for indignation; it would excite one universal shout of laughter; it would from thenceforth render him who had uttered the menace

"Sacred to ridicule his whole life long,
And the sad burden of some merry song."

But sir, it is said that I " trifled with the House." I never was more serious in any moment of my life; therefore I am unwilling that a resolution should pass declaring that the House ceased action against me on the ground of my having made a disclaimer. I disclaim not any particle of what I have done; not a single word of what I have said do I unsay; nay, I am ready to do and to say the same again to-morrow.

The resolutions were negatived. Mr. Adams abundantly fulfilled his promise by presenting hundreds of Abolition petitions to Congress, which were, however, all either tabled or referred to the oblivion of committee.

During the next session (on December 20, 1837) William Slade [Vt.]¹ presented two memorials on the abolition of slavery in the District of Columbia. He had entered into a general denunciation of slavery when Henry A. Wise [Va.] asked that he be called to order for speaking beside the question. The Speaker, John White [Ky.], did so. Mr. Slade continued his denunciation, however, by shrewdly quoting from the Declaration of Independence. Thereupon Hopkins Halsey [Ga.] and R. Barnwell Rhett [S. C.]² called upon the delegates of their States to withdraw to the District of Columbia committee room. Here Rhett brought forward two resolutions:

1. That the Constitution having failed to protect the South in the peaceable possession and enjoyment of their

¹ Slade was a lawyer and the editor of an anti-slavery paper, *The Columbian Patriot*. He was in Congress only this term. In 1845 he was elected governor of Vermont.

² Rhett had been Attorney-General of South Carolina. He served in Congress from 1837 to 1849, and in the Senate from 1850 to 1852. He became a member of the Confederate Congress. He was an early and persistent advocate of secession.

rights and peculiar institutions, it was expedient that the Union be dissolved.

2. That a committee of two members from each State be appointed to report upon the best means of peaceable dissolution.

Mr. Rhett intended that these should be presented to Congress, where, though certain to be tabled, they would voice to the country the protest of the South against the Abolition movement. They were, however, negatived, and another was adopted to the effect that all petitions and resolutions on slavery be tabled unread. When this was presented to the House, Mr. Adams objected, but the rules were suspended by a two-thirds vote, and debate was shut off by a call for the "previous question." Again Mr. Adams rose to speak, but his voice was drowned by loud cries of "Order!" from all over the House, and in this manner, appropriate to its nature, the "Gag Law" was perfected.

Exclusion of Abolition Literature from the Mails. While the right of petition was under discussion in the House in 1836-37, the Senate was debating the kindred right of a free press. The Southerners, incensed at Abolition pamphlets which depicted them in text and illustrations as brutal slave-drivers, desired to exclude them from the mails, being encouraged to do so by a passage in the message of President Jackson at the beginning of the session in which he said that the Post-office Department, "which is designed to foster an amicable intercourse . . . between all the members of the Confederacy," should not be permitted of "being used as an instrument of an opposite character."

Senator Calhoun moved that a committee of three Southerners and two Northerners be appointed to

report on the matter. He was made its chairman. It reported a bill subjecting to penalty any postmaster who should knowingly permit Abolition literature to be sent into States where such prints were forbidden by law. The bill was rejected by a majority of six votes, the number cast by Southern Senators. In a tie vote in its preliminary stages, Vice-President Van Buren gave the casting vote in its favor. In his inaugural address as President in the following March he expressed his determination to resist the slightest attempt to interfere with slavery in the States or District of Columbia.

Sketch of Van Buren. Martin Van Buren was of Dutch descent. He was born in 1782 (being therefore the first of our Presidents who had never been an English subject), at Kinderhook, N. Y., from which fact and his shrewdness as a politician he became known as the "Fox of Kinderhook." He began the study of law at the age of fourteen as an office-boy of a local attorney, and at the age of twenty-one, after some study in New York City, was admitted to the local bar. He cultivated extemporaneous debate, and entered into politics at the age of eighteen by taking part in a nominating convention. He was an ardent Jeffersonian in the contest with Burr. In 1806-07 he married and removed to Hudson, the county-seat of Columbia County, of which he became surrogate in 1808. He opposed the rechartering of the United States Bank in 1811. In 1812 he was elected to the State Senate, where he supported the Madison administration in the Second War with Great Britain, and the Erie Canal project. In 1815 he was appointed Attorney-General of New York. In 1816 he removed to Albany. Though a Republican, he opposed Governor De Witt Clinton's use of patron-

age, and was removed from his position. While he could not defeat Clinton's reëlection, he was instrumental in 1821 in securing the reëlection to the United States of the Federalist, Rufus King, whose stand on the Missouri question had made him popular with all of the many political factions into which New York was then divided, and the choice of himself as King's colleague. In the same year he was elected to the constitutional convention of New York, where he ably supported the conservative side against Chancellor James Kent and others who advocated abolition of executive veto, suffrage (including that of negroes) without property qualification, an elective judiciary, and the choice of minor offices by the people. In the Senate he was made a member of the Judiciary and Finance committees. He voted in the Florida Territorial bill of 1822 that no slave should be directly or indirectly imported into the Territory, except by a *bona-fide* settler and slave-owner. This restriction was defeated. In 1824 he opposed ratification of the convention with Great Britain to suppress the slave trade. He advocated abolition of Federal imprisonment for debt, and voted for the protective tariffs of 1824 and 1828, in the latter case in obedience to instructions of his State, but without expressing his personal opinion, which it would seem was in favor of a tariff for revenue with incidental protection. He advocated the abolition by constitutional amendment of State lines in the Electoral College by organization of Federal districts to be represented by its members, and the adoption of another amendment to render Internal Improvements explicitly constitutional by an equal distribution of these among the States. In a debate on the Federal judiciary in 1826 he advocated the State

Rights proposition to abolish the adjudication by the Supreme Court of political questions. He led the opposition to the Monroe Doctrine as a definitive pledge, holding that it was a mere warning. He was known as the "coryphæus" of the debates on the subject, one of his speeches being regarded at the time as the equal in argument of any that had ever been delivered in the Senate.

In 1828 he was elected governor of New York. He set himself to reform the loose banking system of the State, and endeavored, though in vain, to separate State from Federal elections. Having supported with signal ability and energy Jackson's election as President, he was made Secretary of State in 1829. In 1831 he was appointed minister to Great Britain, but the appointment was not confirmed by the Senate for partisan reasons. This made Van Buren very popular, and caused the people to administer a just rebuke to the Senate by electing him in 1832 Vice-President, to preside over the Chamber which had rejected him. His subsequent history as President, Free-Soil candidate for President, etc., is given on other pages of this work. In 1860 he voted against Lincoln for President, but gave his administration hearty support until his death in 1862.

Says Appleton's *Cyclopædia of American Biography*:

"Van Buren was the target of political accusation during his whole public career, but kept his private character free from reproach. . . . He was singularly affable and courteous; . . . intensely partisan, he never carried the contentions of the political arena into the social sphere. . . . As a lawyer his rank was eminent. Though never rising . . . to the heights of oratory, he was . . . fluent and . . . felicitous . . . mild and insinuating, never de-

clamatory. . . . He always went to the pith of questions. . . . As a politician he was masterful in leadership—so much so that, alike by friends and foes, he was credited with reducing its practices to a fine art. He was . . . known as the ‘director’ of the famous ‘Albany Regency’ which for so many years controlled the politics of New York, and . . . ‘the Little Magician’ from the deftness of his touch in politics. But, combining the statesman’s foresight with the politician’s tact, he showed his sagacity rather by seeking a majority for his views than by following the views of a majority.”

In the debate on the exclusion of Abolition literature from the mails, Senator Webster opposed the bill, saying that under it even the Constitution might be debarred.

It thrusts upon the harassed postmasters the duty of acting as judges, and judging correctly, under penalty, upon whether a publication is forbidden by the laws of the slave States, with all of which the act expects him to be conversant.

The bill conflicts with that provision of the Constitution which prohibits Congress from passing any law to abridge the freedom of the press, for circulation through the mails is a part of publication. It supplies a base from which to proceed to suppress all publications, religious as well as political, which may produce excitement in the States.

A copy of a newspaper is the property of its consignee. How, then, can any man burn that property without due form of law? How can the entire issue be pronounced an unlawful publication without a legal trial? In England and France, where the right of printing and publishing is secured to the fullest extent, the proper course is pursued: the individual publisher is permitted to publish what he pleases on peril of being amenable to the laws for any specific injury which he may inflict thereby.

According to his custom of seizing every opportunity that afforded to present his views on the constitutionality of State rights, Senator Calhoun had presented, with the committee's report, a minority report which was a dissertation of this character. He attained his object by provoking much discussion over the thrashed-out question of Nullification, which he was always eager to justify, and over the more pertinent issue of the right of the slave States to have their internal peace protected by the Federal government compelling the free States to suppress the Abolition movement at its sources within their borders.

John P. King [Ga.],¹ a jurist of the soundest principles, spoke for the majority of the committee against Calhoun's report, declaring that its principles were not only inconsistent with the bill recommended, but with the existence of the Union itself, which, if they were established, would thereby be terminated.

In reply, Calhoun resorted to his favorite threat of Nullification.

Let it be riveted in every Southern mind that the laws of the slaveholding States for the protection of their domestic institutions are paramount to the laws of the general government in regulation of commerce and the mail, and that the latter must yield in event of conflict; and that, if the government should refuse, the States have a right to interpose, and we are safe.

¹ King had been a judge before entering the Senate, where he served one term—from 1833 to 1837. He was strongly opposed to Nullification.

CHAPTER VI

THE MEXICAN WAR^x

The Republic of Texas—The Oregon Boundary—"Fifty-four Forty or Fight"—Sketch of William Allen [O.], Coiner of the Slogan—Debates on the Annexation of Texas: in Favor, Senator Benton and Representative Charles J. Ingersoll [Pa.]—Sketch of Ingersoll—Debate in the Senate on War-Making Power of Congress: in Favor, George McDuffie[S.C.]; Opposed, John J. Crittenden[Ky.]—Election of James K. Polk [Tenn.] as President—Sketch of Polk—Debate in the Senate on Notice to Great Britain Terminating Joint Occupancy of Oregon: in Favor, Mr. Allen, Edward A. Hannegan [Ind.]—Sketch of Hannegan—Debate in the House on Admission of Texas into the Union: in Favor, Stephen A. Douglas [Ill.]; Opposed, Julius Rockwell [Mass.]—Sketches of the Debaters—Debate in the Senate: in Favor, John M. Berrien [Ga.]; Opposed, Mr. Webster—Sketch of Berrien—The Act of War with Mexico—President Polk Declares it was Done by Mexico—Opposition to the War by Representative Joshua R. Giddings [O.], Senator Thomas Corwin [O.], Representative Abraham Lincoln [Ill.]—Sketches of the Debaters—Treaty of Peace with Mexico—The Gadsden Purchase.

TEXAS, a province of Mexico which excluded slavery from its dominions, was settled largely by immigrants from the slave States who were desirous of introducing this "domestic institution," and, to this end, of having the province annexed by the United States. In 1827 and 1829 the American Secretaries of State, Clay and Van Buren, had made cash offers for it to Mexico, \$1,000,000. in the former case, and \$5,000,000. in the

^x Including the associated debates on the Oregon Boundary.

latter, but these were refused. Thereupon a movement for independence began among the settlers, and on March 4, 1836, they declared the province a Republic. This they virtually established on the 10th of April at the battle of San Jacinto, where, under General Samuel Houston they captured Santa Anna, the Mexican commander, who obtained his freedom by signing a treaty acknowledging Texan independence—which, however, the Mexican government repudiated. The United States recognized the Republic in March, 1837, thus giving Mexico a cause of grievance against our country. From this time until December, 1845, when it was accomplished, the annexation of Texas was a political issue in the United States which divided the country, the South favoring, and the North opposing it, since the Republic had admitted slavery. An annexation treaty was concluded on April 12, 1844, by Secretary of State Calhoun, but was rejected by the Senate, 16 ayes to 35 nays, because it fixed the southern boundary of Texas at the Rio Grande instead of the Rio Neuces, the boundary claimed by Mexico, and hence would involve the countries in war over the intervening territory, an event which later occurred when the annexation was made on the same terms.

While the question was in suspense the Texan authorities, in order to hasten annexation, distributed through the Southern States vast quantities of land warrants, and appealed to Southern statesmen to make the treaty by suggesting that a number of new slave States could be carved out of the territory, and that these would preserve between the sections the balance of power, which was inclining toward the North in the admission of free States.

The two great issues of the Presidential contest of

1844 between Polk and Clay were the Oregon Boundary and the Annexation of Texas. Both the Democratic and Whig platforms demanded "the whole of Oregon."

The Oregon Boundary. The Webster-Ashburton Treaty of August, 1842,¹ fixed the northeastern boundary of the United States by mutual concessions, but left unsettled the northwestern. The several thousand American settlers of the Oregon country, chiefly fur-traders, were anxious to secure the entire Pacific region northward to the Russian occupation, 54 degrees, 50 minutes north latitude.²

British immigrants, shepherds and farmers, were hurrying into the disputed region, and Parliament had extended the criminal laws of Great Britain to the very confines of Missouri and Arkansas. Accordingly a bill was passed by the Senate on February 3, 1843, asserting title of the United States to the contested territory, and extending our laws thereto, and providing for military defense of our claims.³

The bill went to the House, where it was referred to the Committee on Foreign Relations, which presented an adverse report, and no action was taken on the bill during the session.

¹ Calhoun was appointed Secretary of State by Presi-

¹ See page 126.

² Senator William Allen [O.J.] coined the slogan of their demand, "Fifty-four forty or fight." He was a lawyer, who, after a term in Congress (1833-35) became Senator in 1837, and served until 1849. He was Governor of Ohio from 1874 to 1876, at which time his uncompromising Democracy, which led him to endeavor to lead back his party to Jacksonian principles, gave him the sobriquet of "Rise up William Allen," in parody of a popular poem, "Rise up, William Riley, and come along with me," altered in this manner by Arthur A. Hill, an Ohio journalist, in an account of Allen's nomination.

³ For the debate on this bill see *Great Debates in American History*, vol. ii., chapter xi.

dent Tyler early in 1844, and he treated on the question with the British minister, Richard Pakenham, who demanded as a boundary the latitude of 49 degrees westward from Lake Superior till the line met the Columbia, and thence by the river to its mouth. Calhoun, receding from the demand of 54 degrees, 40 minutes, as the boundary, demanded 49 degrees from its intersection with the Columbia westward, and, on this not being conceded, broke off negotiations in January, 1845.

The Annexation of Texas. On June 10, 1844, not with hope of its passage, but to supply "campaign material" in the pending Presidential contest, Thomas H. Benton [Mo.] introduced in the Senate a bill to annex Texas.

It provided for a division of the Republic into four States, two in the south to be with slavery, and two in the north without the institution; and for a conference with Mexico to fix the boundary, giving the President, however, power to annex Texas without Mexico's consent if the dispute could not be settled.

This bill, at the next session, was superseded by a joint resolution of House and Senate, proposed by Representative Charles J. Ingersoll [Pa.],¹ providing for the annexation of Texas, and its admission into the Union "as soon as may be consistent with the principles of the Federal Constitution." The Senate passed this by a vote of 27 to 25 on February 26, 1845, and the House by a vote of 132 to 76 on February 28. Presi-

¹ Charles Jared Ingersoll had been a member of Congress from 1812 to 1814. His present service was from 1841 to 1847. He was an historical writer of ability.

dent Tyler signed the act on March 1. Texas was admitted into the Union in the following December.

In the debate in the Senate the discussion hinged largely on the power of Congress to declare war or make peace, since the passage of the resolution was certain to lead to hostilities with Mexico. George McDuffie [S. C.]¹ asserted that Congress had this power; John J. Crittenden [Ky.] denied that it had, saying that this was a part of the treaty-making power vested in the President and Senate jointly.

Crittenden asked, "How can Congress make peace?" McDuffie replied, "By disbanding the army and navy—I do not presume the President and Senate would undertake to carry on the war after Congress had done this." Crittenden rejoined, amid great laughter: "No, sir; but it would be a very good time for the enemy to carry on the war."²

In the ensuing election James Knox Polk [Tenn.] and George Mifflin Dallas [Pa.] were elected President and Vice-President respectively, over Henry Clay [Ky.] and Theodore Frelinghuysen [N. J.] by 175 electoral votes to 105.

Sketch of Polk. Polk was of Scotch-Irish ancestry. He was born in Mecklenburg County, N. C., in 1795. In 1806 his father removed to Tennessee, and engaged in land-surveying. James worked on the home farm and assisted his father in surveying. He was graduated from the University of North Carolina in 1818 with the highest classical and mathematical honors. He studied law at Nashville under Felix Grundy, the

¹ McDuffie was a lawyer who had been Governor of his State. He was Senator from 1842 to 1846.

² For the debate in the House see *Great Debates in American History*, vol. ii., p. 338.

leader of the Tennessee bar. While here he formed the friendship of Andrew Jackson. In 1820 he established practice at Columbia, the seat of Maury County. Being an ardent Jeffersonian he engaged in politics and won a high reputation as an argumentative speaker, being called the "Napoleon of the Stump." He was appointed clerk of the Tennessee Assembly, and, in 1823, was elected a member of that body. In this capacity he secured the passage of a law against the prevalent practice of dueling. He was elected to Congress in 1825. His maiden speech was in favor of a proposed amendment to the Constitution to elect the President and Vice-President directly by the people. Its thoroughness, clearness, and force at once placed the young member in the front rank of debaters. He opposed representation at the Panama Congress as tending to involve the United States in war with Spain, and establishing a dangerous precedent. As chairman of a special finance committee he denied the constitutional power of Congress to collect revenue beyond the wants of the government. He was a faithful worker on committees, and, on Jackson's accession to the Presidency, became the Administration spokesman of the House. Early in 1833, as a member of the Ways and Means Committee, he made a minority report against the United States Bank which aroused great opposition to him in Tennessee. Later in the year he became chairman of the committee, and defended the removal of the government's deposits from the Bank in a notable speech which won the praise of the leader of the opposition, Senator McDuffie of South Carolina. He was Speaker of the House during Van Buren's administration, which he heartily supported. Though Polk was opposed to the anti-slavery movement, John

Quincy Adams bore testimony to his fairness and courtesy. In 1839 he was elected Governor of Tennessee. He was defeated for reëlection in 1841 and 1843 owing to the enthusiasm for the Whigs generated in the Harrison Presidential campaign of 1840.

In April, 1844, the Tyler treaty for the annexation of Texas injected a new issue into politics, dividing both parties into Northern anti-slavery, and Southern pro-slavery factions, the Whig, however, to a greater degree than the Democratic. The leading statesmen mentioned for President, Van Buren, the Democrat, and Clay, the Whig, were reserved on the issue. Polk, who was a leading contestant for the Democratic nomination for Vice-President, boldly advocated annexation. This caused his nomination for President by the Democratic convention which met in Baltimore on May 27.

Of Polk's administration, the historian, George Bancroft, his Secretary of the Navy, said, in 1888:¹

"One of the special qualities of Mr. Polk's mind was his clear perception of the character and doctrines of the two parties that then divided the country. Of all our public men . . . Polk was the most thoroughly consistent representative of his party. . . . Time and time again his enemies sought for ground on which to convict him of inconsistency, but so consistent had been his career that the charge was never even made. Never fanciful or extreme, he was ever solid, firm, and consistent. His administration, viewed from the standpoint of results, was perhaps the greatest in our national history, certainly one of the greatest. He succeeded because he insisted on being its center, and in overruling and guiding all his secretaries to act so as to produce unity and harmony."

¹ *Appleton's Cyclopædia of American Biography*, vol. v., p. 55.

Vice-President Dallas, in his *Eulogy on the Life and Character of the Late James K. Polk* (1849), said:

"He was temperate, but not unsocial; industrious but accessible; punctual but patient; moral without austerity and devotional though not bigoted."

The Oregon Boundary. In his inaugural address in March, 1847, President Polk, in fulfillment of ante-election promises of his party platform, asserted our title to the "whole of Oregon." This occasioned strong feeling in Canada and Great Britain for war with the United States. The Administration, fearing disaster as an outcome of hostilities, and also not being desirous of increasing free territory, receded from its extreme position, and Secretary of State James Buchanan again presented to the British government Calhoun's proposal, which was again refused. Knowledge of this transpiring, there was so great an outcry even among the Democrats against faithlessness to the party pledge that the President in his annual message of December 2, 1845, reiterated his former claim, and also advised that notice be given to Great Britain that the United States would terminate the joint occupancy of the territory which had been agreed upon in 1827.

On December 18, William Allen [O.] introduced in the Senate a resolution authorizing the President to give such notice, and on December 30, Edward A. Hannegan [Ind.]¹ introduced resolutions which declared:

1. The whole of Oregon belonged to the United States.
2. There was no power in the government to alienate

¹ Hannegan was a lawyer who had served in the Indiana legislature and in Congress (1833-35). He was Senator from 1843 to 1849, and minister to Prussia in 1849-50.

any part of the national domain or to transfer to a foreign power the allegiance of its citizens.

3. That the surrender of Oregon in particular would be "an abandonment of the honor, character, and best interests of the American people."

To these Senator Calhoun opposed resolutions declaring that the President and the Senate had the constitutional power to make treaties, which included the adjustment of boundaries, and presumably thereby to maintain the honor, character, and best interests of the American people, and therefore that the joint occupancy of Oregon should be continued. In the debate which ensued Senator Hannegan said:

"The course pursued on this Oregon question contrasts strangely with that on a precisely similar question, the annexation of Texas. Texas and Oregon were nursed in the same cradle—the Baltimore Convention—and were at the same instant adopted by the Democracy. But the moment Texas was admitted, her peculiar friends turned and did all they could to strangle Oregon!"¹

The joint resolution giving Great Britain notice of terminating the Oregon convention was passed by the House on February 9, 1846, by a vote of 163 to 54, and by the Senate on March 31, by a vote of 40 to 14. On June 6, the British minister, Pakenham, offered to accept the line of 49 degrees clear to salt water. President Polk left the onus of the decision to the Senate, the majority of which were Whigs. To the credit of the Opposition it must be said that, while realizing the purpose of the President, they acted as patriots rather

¹ For an extended report of this debate see *Great Debates in American History*, vol. ii., chapter xi.

than politicians, and advised acceptance. The treaty fixing this boundary was ratified at London on July 17, 1846.

In the meantime great feeling between the North and the South had arisen over the admission of Texas as a slave State into the Union. The father of this measure was Stephen A. Douglas [Ill.].

Sketch of Douglas. Stephen Arnold Douglas was born in Brandon, Vt., in 1813. His father, a physician, died when the boy was two months old, and his mother retired to a farm, where the boy was brought up with the three months' schooling permitted him in each winter. At the age of fifteen he was apprenticed at cabinet-making in Middlebury. A year and a half after this he gave up his employment and attended an academy. His mother marrying again and removing to Ontario county, N. Y., he continued his studies there until 1832, when he began the study of law. In 1833 he responded to the call of the West affecting ambitious youth at the time, but, though visiting many cities, failed to find steady employment until, reduced to tramping, he made a favorable impression by serving as an auctioneer's clerk at Winchester, Ill., and was engaged as a teacher. In 1834 he removed to Jacksonville, and was admitted to the bar. A speech in favor of Jackson's administration which he made brought him into favorable notice, and he acquired at once a lucrative practice. At the age of twenty-two he was elected Attorney-General of Illinois over a man of years and distinction, General John J. Hardin. In 1835 he was elected to the legislature, being the youngest member. There the vigor of his mind in contrast to his short and squatly frame won for him the sobriquet of the "Little Giant." In 1837 he was appointed regis-

ter of the land-office at Springfield. In 1836 he was Democratic candidate for Congress, but failed of election owing to the rejection of many ballots on which his name was misspelled. In 1840 he was appointed Secretary of State of Illinois, and in 1841 a judge of the Supreme Court. He was a member of Congress from 1843 to 1847, when he went to the Senate, where he remained until his death on June 3, 1861. His acts in this body, his opposition to Buchanan's administration, his joint debate with Lincoln in candidacy for the last term, and his candidacy for President are related elsewhere in these pages.

Mr. Douglas was a powerful but unpolished speaker, and wonderfully quick-witted, being so ready to improve any advantage which presented itself over his opponent that he often involved himself in inconsistencies. Being an opportunist of this order, he seized upon principles originated by others, which his profound knowledge of the popular mind led him to believe would captivate it by an appearance on the face of justice and expediency, and made them his own. Having adopted a course he followed it courageously in despite of a revulsion of public opinion, confident that this would turn again in his favor.

Admission of Texas into the Union. Mr. Douglas, as chairman of the Committee on Territories, introduced in the House on December 10, 1845, joint resolutions (of House and Senate) to admit Texas into the Union. Remonstrances were presented from various Northern State legislatures against admission with slavery. After some debate the resolutions were adopted on December 16 by 141 votes to 56. While they omitted direct allusion to slavery, this was implicitly permitted by the statement that the State should be "admitted

into the Union on an equal footing with the original States *in all respects whatever.*"

Julius Rockwell [Mass.]¹ was the chief speaker in the negative. He said:

This Texas slavery question was for the first time presented to the consciences of men. In the name of the free Commonwealth of Massachusetts he protested solemnly against the extension of slavery as an evil directed against the truest interests of his country; as militating directly against its prosperity and freedom, and darkening that national character which she ought to hold up to all nations and ages; as opposed to the Constitution which had hitherto preserved us in concord; as against the principles of the Fathers of the Republic, who, though many of them were from slave States, would have saved us, if they could, from so great an evil, one of these (Jefferson) confessing that he "trembled for his country when he remembered that God is just."

The joint resolution passed the Senate on December 22, 1845, by a vote of 31 to 14. Daniel Webster [Mass.] opposed it, and John M. Berrien [Ga.]² defended it.

The Massachusetts statesman declared that, while accepting the provisions of the Constitution in regard to slavery, he could never agree to the admission of new

¹ Rockwell was a lawyer. He served in Congress from 1843 to 1851. In 1853 he was a delegate to the Massachusetts constitutional convention. He was Senator from 1853 to 1855, and a judge of the Massachusetts Superior Court from 1859 to 1886. He died in 1888.

² John Macpherson Berrien was a graduate of Princeton. He was admitted to the bar at the age of eighteen, and attained a high reputation as a lawyer. He was successively solicitor and judge of the eastern district of Georgia, and a member of the State Senate. He was United States Senator from 1825 to 1829, and from 1840 to 1852. He was Attorney-General in Jackson's Cabinet from 1829 to 1831. He was a Whig. His clearness of argument and eloquence gained for him the title of the "American Cicero."

States into the Union with the inequalities which were allowed to the original slave States.

I do not think that the free States ever expected, or could expect, that they would be called on to admit further slave States having the unequal advantages arising to them from the mode of apportioning representation under the existing Constitution.

This act would fasten slavery forever on the State.

The constitution of Texas restrains its legislature from abolishing slavery except on the *consent of every master*, and the payment of compensation.

The Senator from Georgia declared that the pledge of the government had been given to admit Texas, and it must be redeemed.

The only question, therefore, is whether the people of Texas have complied with the conditions of the joint resolution. This they have done. The provision of their constitution on slavery is within the exclusive power of any original slave State in the Union as a domestic regulation. Congress has no authority, direct or indirect, to interfere with it.

The Act of War with Mexico. In his message of December, 1845, President Polk had congratulated the country on the "bloodless achievement," but this did not remain so long. General Zachary Taylor occupied the disputed territory, and, on April 25, 1846, one of his invading companies was captured by a superior troop of Mexicans, and an American officer and eight privates were killed. On May 8 General Taylor attacked a force, double his number, of Mexicans under General Arista at Palo Alto, and followed up a victory over

them the next day at Resaca de la Palma, driving the enemy across the Rio Grande.

On May 11, the President sent to Congress a message declaring that war had been begun by Mexico in that she "had passed the boundary of the United States and shed American blood on American soil." On the following day the Senate passed an act "providing for the prosecution of the *existing* war between the United States and Mexico." On the question of whether this was in accordance with fact, or the situation required a formal declaration of war, a spirited discussion arose, which, while interesting to students of diplomatic controversy, is here omitted as not bearing upon the subject in hand of slavery.¹

[The Whigs, while opposed to the manner in which the Administration had plunged the country into war, were willing to support the army now that hostilities had begun. One Representative, however, an Ohio Abolitionist, Joshua R. Giddings, refused to vote a dollar for the prosecution of the unlawful invasion of a sister republic, and the seizure of territory which would be converted from free soil to slave, and thus aggrandize the power of slavery in the Union.

Sketch of Giddings. Joshua Reed Giddings was a native of Pennsylvania, who removed in boyhood with his parents to a farm in Ashtabula County, Ohio. Here he devoted his evenings to study. He was a volunteer in the War of 1812. After the war he became a teacher, studied law, and was admitted to the bar in 1820. After a term in the State legislature, he was elected as a Whig to Congress in 1838, serving until 1859. At once he became prominent as a passionate speaker against

¹ For a report of the debate see *Great Debates in American History*, vol. ii., p. 345.

slavery and the treatment of the Indians. In 1841 the *Creole* sailed from Virginia to Louisiana with a cargo of slaves, who got possession of the vessel, and ran it into Nassau of the Bahamas, where, by British law, they were set free. Daniel Webster, Secretary of State, wrote to Edward Everett, our minister to Great Britain, saying we would demand indemnification for the owners of the slaves. Thereupon Mr. Giddings offered in the House resolutions declaring that, as freedom was a natural right, slavery had no force beyond the territorial jurisdiction which created it, and that the *Creole* mutineers were justified in resuming their natural right to be free. The House passed a resolution of censure on Mr. Giddings by a vote of 125 to 69, and, moving the previous question, denied him a right to speak. He thereupon resigned, and was reelected by a great majority. The claim against Great Britain was not prosecuted.

In 1843 Giddings united with John Quincy Adams and seventeen other representatives in an address to the country against the annexation of Texas, as tantamount to dissolution of the Union. He heartily contended for "the whole of Oregon" in the boundary dispute with Great Britain, and rightly predicted that Polk would not keep his ante-election pledge in the matter. In 1848 he broke with the Whig party on its nomination of Zachary Taylor, a slaveholder, for President, and became a Free-Soiler, and in 1849 he and others of the new party accomplished the defeat of the Whig candidate for Speaker, Robert C. Winthrop [Mass.], because of his unsatisfactory position on slavery, and the election of the Democratic candidate Howell Cobb [Ga.]. He was prominent in opposition to the Clay Compromise of 1850. In 1861 he was appointed Consul-General

to Canada, which position he held until his death in Montreal in 1864. He was thus described by a contemporary:

He was six feet one inch in height, and considered the most muscular man on the floor of the House. Whenever he spoke he was listened to with great attention, the members frequently gathering around him. He had several affrays on the floor, but invariably came out ahead. On one occasion he was challenged by a Southern member, and selected two rawhide whips as weapons. A look at Mr. Giddings's stalwart frame influenced the Southerner to back out.

He published under the name of "Pacificus" a notable series of political essays, chiefly against the annexation of Texas, in 1843; a volume of his speeches in 1853; *The Exiles of Florida*, a defense of the Seminole Indians, in 1858; and *The Rebellion: its Authors and Causes*, in 1864.

On the question of voting supplies to our soldiers in Mexico he said, on May 13, 1846:

Sir, no man regards this war as *just*. The civilized world is conscious that it has resulted from a desire to extend and sustain an institution on which the curse of the Almighty most visibly rests.

He extolled Mexico for her determination to resist to the last extremity our unjust aggression, citing a report of General Taylor of the people of the invaded territory applying the torch to their dwellings and flying to arms against the invaders.

I confess I was struck with deep solemnity when that communication was read at your table, and, in imitation

of William Pitt, I was ready to swear that, if I were a Mexican, as I am an American, I would never sheathe my sword while an enemy remained upon my native soil.

But it is said, "we must stand by our country." He only is a true friend of his country who maintains her virtue and justice. It is true that we should not abandon our country because our government is badly administered; but we should use our efforts to correct the evil and place the government in just and able hands.

He foretold retribution to the United States if the war were prosecuted.

As sure as our destiny is swayed by a righteous God, our troops will fall by the sword and the pestilence; our widows will mourn; and our orphans, rendered such by this unholy war, will be thrown upon public charity.¹

But it is said war is always popular. I deny this assertion. Nine tenths of our people regarded the Florida [Seminole] war with disgust, because it was cruel and unjust and arose from an effort to sustain slavery.² This war is equally unjust, and was begun for a similar purpose, and must in the end be viewed in the same light by the people. You may for a moment excite the young, the giddy, and the thoughtless, but their "sober second thoughts" will lead them to inquire for the *cause* of the war in which they are asked to engage. The true answer to that inquiry must overwhelm its authors with disgrace.

The prescience of the speaker was thoroughly justified. Revulsion of sentiment began before the war was ended, and after its close many Democrats even admitted that it was a page of dishonor in our nation's

¹ The number of Americans who died of disease and wounds was upward of 30,000.

² For the debates on the Seminole war see *Great Debates in American History*, vol. viii., chapter vi.

history, Albert Gallatin declaring that it was "the one blot on our escutcheon." As the war progressed, a number of Senators and Representatives plucked up courage to stand with Giddings to vote against further appropriations for what they termed the "conquest of a sister republic." Among these was Senator Thomas Corwin [O.], who justified such a vote by a long and able speech of which the peroration is one of the gems of American eloquence found in most collections.

Sketch of Corwin. Corwin was a native of Kentucky whose parents, when he was four years old, removed to Lebanon, Ohio. The son worked on the home farm until he was twenty years of age, when he began the study of law. During the War of 1812 he carted supplies for the American troops. Admitted to the bar in 1818, his ability and eloquence soon brought him a lucrative practice, and caused him to be elected to the State legislature. He served in Congress from 1831 until 1840, when he was elected Governor of Ohio on the Whig ticket over Wilson Shannon. It was in the Harrison "campaign of song," and the Whigs sang:

"Oh, Wilson Shannon will get a tannin'
From Tom, the Wagoner-Boy."

Two years later he was defeated for reëlection by Shannon. In 1844 he was sent to the Senate where he remained until 1850, when he was appointed Secretary of the Treasury by President Fillmore. At the end of Fillmore's term he resumed the practice of law at Lebanon. In 1858 he was elected to Congress, serving until 1861, when he was appointed minister to Mexico. On the arrival of Maximilian he came home on leave of absence, and did not return, but set up law practice at

Washington, where he died in 1865. His *Life and Speeches* was published in 1859.

Corwin had an unusually striking face, strong, determined features, and a swarthy complexion, which he often made the subject of his wit. Thus he told of an English dowager, seated next him at a dinner, who asked him in a tone of trepidation: "Is your t-tribe at p-peace with the whites?"—and of his exclusion from a quadroon ball in New Orleans by the door-keeper, who waved him away saying, "No niggahs allowed."

He was reckoned in his day as the most effective of platform orators, and had no rival in power of influencing a jury. His genial humor made him a favorite even with his political opponents. When he returned to Congress after his service as Senator, he was looked up to as a Nestor by all the House, and, being regarded as a moderate man on the slavery issue (the odium resulting from his Mexican war speech having caused him to temper his opinions), had the leading place given him in the attempt to conciliate the Southerners threatening secession.

It was this danger of dissolution that he warned the country against in his peroration on the Mexican War.

"Oh, Mr. President, it does seem to me, if hell itself could yawn and vomit up the fiends . . . commissioned to disturb the harmony of this world . . . the first step in the consummation of this diabolical purpose would be to light up the fires of internal war, and plunge the sister States of this Union into the bottomless gulf of civil strife. We stand to-day on the crumbling brink of that gulf—we see its bloody eddies wheeling and boiling before us—shall we not pause before it be too late? How plain . . . is here the path, . . . the only way of duty, of prudence, of true patriotism.

Let us abandon all idea of acquiring further territory, and . . . cease at once to prosecute this war. . . . Tender Mexico peace, and, my life on it, she will accept it. But, whether she shall or not, you will have peace without her consent. It is your invasion that has made war; your retreat will restore peace. Let us then close forever the approaches of internal feud, and so return to the ancient concord, and the old way of national prosperity and permanent glory. Let us here, in this temple consecrated to the Union, perform a solemn lustration; let us wash Mexican blood from our hands, and on these altars, in the presence of that image of the Father of his Country that looks down upon us, swear to preserve honorable peace with all the world, and eternal brotherhood with each other."

In the course of his speech Senator Corwin, as Representative Giddings had done, paraphrased Lord Chat-ham, and said: "If I were a Mexican as I am an American . . . I would welcome these invaders with bloody hands to hospitable graves." This utterance made him exceedingly unpopular with all but the extreme anti-slavery men in the country.

Abraham Lincoln, a new Representative from Illinois, while he voted for supplying the troops, introduced in the House on December 22, 1847, resolutions calling on President Polk for information as to the circumstances of the origin of the war.

Sketch of Lincoln. Lincoln was born February 12, 1809, in a log cabin on a rather sterile farm in La Rue (now Hardin) county, Kentucky, about three miles from Hodgenville.^{*} His parents, Thomas and Nancy (Hanks) Lincoln, were both of Quaker descent. When

^{*}A full-sized model of the cabin is contained in a memorial building on the farm which was erected by the Lincoln Farm Association, and this and the farm are preserved as a national heritage.

the boy was seven years old and his elder sister nine, the family removed to an equally undesirable farm near Gentryville, Ind. The hard struggle with pioneer conditions caused the death of Mrs. Lincoln two years afterwards, and Mr. Lincoln returned to Kentucky and brought back as his second wife, Sarah Bush Johnston, a widow with several young children. His stepmother exerted a wise and loving influence over "Abe," to which he responded so faithfully that she held him dearer than any of her own brood. He transformed his inherited shiftlessness into industry, and for her sake he abandoned his ambition to become a river boatman, and remained on the farm, working on this, and, as a hired man, on neighboring farms, the results of his labors being taken, according to custom, by his father until he attained his majority. He obtained a scanty education from chance school-teachers who strayed into the region, and read over and over again the few books in the neighborhood, such as the Bible, Bunyan's *Pilgrim's Progress*, *Æsop's Fables*, and Weems's *Life of Washington*. He early began to write down his impressions of what he read and his original thoughts, and to work out arithmetical problems. He also practised himself in speaking to imaginary audiences. By the time he was nineteen he had acquired an excellent handwriting and a clear style of composition, and so was intrusted by the Gentrys, the founders of the community, with a cargo of farm products which he took on a flat-boat to New Orleans, and there sold.

Thomas Lincoln had never been able to pay off the mortgage on his farm, and so, selling the little equity in the property to the mortgagee, he removed, when Lincoln was twenty-one years of age, to Mason County,

Illinois, and located on rich bottomland of the Sangamon River. Here Abraham helped build the house and split the rails to enclose the field, and then left the family to strike out for himself. The next year Thomas Lincoln, affected by the ague of the river land, removed to a more healthful home on Goose-Nest Prairie in Coles County. Thomas Lincoln died here in 1851, and his wife in 1869. Abraham paid them two visits, once just before he began the practice of law. He thus records this visit and its occasion:

"I was told that I never would make a lawyer, if I did not understand what 'demonstrate' means. I left my situation in Springfield, went to my father's house, and stayed there till I could give any proposition in the six books of Euclid at sight. I there found out what 'demonstrate' means."

The second visit was just before he went to Washington to be inaugurated as President. As he was leaving, his stepmother, with arms about his neck and with tears streaming down her cheeks, prophesied his death before she would see him again.

The first job of the independent Lincoln, now full-grown to the height of six feet and four inches, and of extraordinary muscular strength, being the champion wrestler of the region, was on another flat-boat expedition to New Orleans. Here he witnessed a slave auction, which gave him such a sickening sense of horror at slavery that he remarked:

"If I ever get a chance at that thing, I'll hit it, and hit it hard."

Returning to Illinois, Lincoln settled at New Salem as clerk in the store of the projector of the flat-boat expedi-

tion. Here he spent much time in reading, specially preparing himself in law. He also took private lessons of a local school-teacher in mathematics, geography, and grammar. Soon he entered into partnership with a man of even less capital than himself, and conducted a country store, which did not thrive, owing largely to his partner's drunkenness, and Lincoln's want of business ability. Indeed, he confessed late in life that he had always been a poor financier. In 1832 he volunteered in the Black Hawk war. In the same year he was defeated as the Whig candidate for the legislature, his local popularity, however, being shown by New Salem casting for him all of her votes but three. He was then appointed postmaster of the town and deputy-surveyor of the county. In 1834 he was elected to the legislature, and in the same year removed to Springfield and entered into law partnership with John T. Stuart, an able practitioner whose acquaintance he had formed in the Black Hawk war. He remained in the legislature four terms, declining reëlection in 1840. From the first he took a prominent place in that body, and led the State into a wild orgy of internal improvements, which were never completed, though they saddled the poor pioneer commonwealth with a debt of \$8,000,000. In his closing term, Lincoln deeply regretted his part in the movement, and confessed his share in responsibility for it. By promising canals, etc., to some counties, and money appropriations in lieu of these to others, he and eight other of the representatives from the Springfield region, who were known as the "Long Nine," because all were over six feet in height, succeeded in accomplishing the removal of the State capital from Vandalia to Springfield, although there were other contesting towns far more deserving of this honor than Lincoln's

home place, which was a village of unpaved streets, hub-deep in mud during winter when the legislature met, and without any other public halls than churches. The citizens of Springfield had in their enthusiasm voted a bonus for the location greater than they could well pay. After securing the capital some of these proposed to repudiate the promise, but Lincoln held them to it, and, by great personal sacrifices, in which he was a chief sufferer, the debt was finally paid.

Robert L. Wilson, one of the "Long Nine," has recorded his impressions of Lincoln at this period¹:

"Lincoln was a natural debater; he was always ready, and always got right down to the merits of his case, without any nonsense or circumlocution. He was quite as much at home in the legislature as at New Salem; he had a quaint and peculiar way, all his own, of treating a subject, and he frequently startled us by his modes—but he was always right. He seemed to be a born politician. We followed his lead, but he followed nobody's lead. . . . He could grasp and concentrate the matters under discussion, and his clear statement of an intricate or obscure subject was better than an ordinary argument. It may almost be said that he did our thinking for us, but he had no arrogance, nothing of the dictatorial; it seemed the right thing to do as he did . . . we recognized him as a master of logic. . . .

"He was poverty itself when I knew him, but perfectly independent. He would borrow nothing, and never ask favors. He seemed to glide along in life without any friction or effort."

Stephen A. Douglas was also a member of the legislature, being the leader of the Democrats. He, too,

¹ See *Life of Lincoln*, by Henry C. Whitney, vol. i., p. 140.

was heartily in favor of public improvements. He worked vigorously for his home town, Jacksonville, in the fight for the capital. The victory of Lincoln was the first the Whig leader obtained over the man with whom he was to have a long series of contests ending with that for the Presidency.

During one session the Democrats were in a majority, and, under the leadership of Douglas, they entirely overthrew the judicial system of the State, appointing a bench of their own partisans, Douglas being among the number. Public opinion condemned the change, and it was shortly afterwards abolished by a new constitution adopted by the State, and the old system was restored. Lincoln subsequently, in his famous debates with Douglas, made good use of this episode in his opponent's career, showing that the advocate of submitting to the Dred Scott decision had not always upheld the sanctity of the judiciary.

In 1846 Lincoln was elected to Congress over the famous evangelist, the Rev. Peter Cartwright. He early made himself conspicuous in the House by presenting a scheme for abolition of slavery in the District of Columbia, which, however, was refused consideration. He did faithful work on the Post-office committee. Owing to the unpopularity among his constituents of his course on the Mexican war he declined to be a candidate for reëlection. He was succeeded by a Democrat. He retired to the practice of law, with the intention of keeping out of politics, at which, he confessed to the Nestor of the Whigs in Washington, the elder Thomas Ewing, he had made a dismal failure. His subsequent career, to his election as President, will appear in following pages.

The tributes to Lincoln are so many and so excellent

that it would be invidious here with respect to their authors to present any.¹

The demands of Representative Lincoln on President Polk for information as to the cause of the Mexican war are known as the "Spot Resolutions" from their phraseology. With characteristic departure from the conventional form of expression, they called on the President to say whether

the "spot on which the blood of our citizens was shed, as his message declared, was or was not" within the bounds of Mexico as recognized by treaty; whether "the spot" was or was not within a settlement of loyal Mexicans, isolated by wide, uninhabited regions, from the American settlements, and governed entirely by Mexican laws; whether the army under General Taylor was or was not sent to invade the region by the order of the President; and whether Taylor had or had not said that in his opinion no such invasion was necessary for the defense of Texas.

On January 12, 1848, Lincoln spoke upon his resolutions. He concluded with a caustic arraignment of President Polk.

"The President is in nowise satisfied with his own positions. First he takes up one, and, in attempting to argue us into it, he argues himself out of it; then seizes another and goes through the same process; and then, confused at being able to think of nothing new, he snatches up the old one again. . . . His mind, taxed beyond its power, is run-

¹ The reader is referred for prose tributes to *The Library of Literary Criticism*, edited by Charles Wells Moulton, vol. vi., p. 411; and for poetic tributes to *The Poets' Lincoln*, edited by Osborn H. Oldroyd. The introduction of the latter collection was written by the author of the present book. It is a study of the concurrent development of Lincoln's ability as a statesman and his moral character.

ning hither and thither, like some tortured creature on a burning surface, finding no position on which it can settle down to be at ease. . . . He is a bewildered, confounded, and miserably perplexed man. God grant he may be able to show that there is not something about his conscience more painful than all his mental perplexity."

Treaty of Peace with Mexico. On February 2, 1848, a treaty of peace, known from the place where it was made as the Treaty of Guadalupe Hidalgo, was signed by Mexico and the United States, and on July 4 was proclaimed to be in force. Mexico ceded to us for \$15,000,000, and all our claims against her, all of the present territory of the United States south and west of the Louisiana Purchase, except a strip of territory in the southern part of the present States of New Mexico and Arizona, which was subsequently ceded (in 1854) for \$10,000,000. The latter cession was called the Gadsden Purchase from the fact that it was negotiated by our minister to Mexico, James Gadsden.

CHAPTER VII

THE WILMOT PROVISO

Debate in the House on the Wilmot Proviso: in Favor, David Wilmot [Pa.], Joshua R. Giddings [O.]—Sketch of Wilmot—Senator Lewis Cass [Mich.] Enunciates Doctrine of Popular Sovereignty—Sketch of Cass—Debate in the Senate on Slavery in the Territories: in Favor, John C. Calhoun [S. C.]; Opposed, Thomas H. Benton [Mo.], Daniel Webster [Mass.]—Debate in the Senate on Legality of Slavery in Territories: in Favor, James M. Mason [Va.], Reverdy Johnson [Md.]; Opposed, Thomas Corwin [O.]—Sketches of Mason and Johnson—Presidential Campaign of 1848—Debate in the Senate on Extension of Constitution to the Territories: in Favor, Isaac P. Walker [Wis.], Mr. Calhoun, John M. Berrien [Ga.]; Opposed, Mr. Webster—Sketch of Walker.

THE question now arose, what should be the condition of this vast territory outside of Texas—slave or free? Already this had been anticipated. On August 8, 1846, a bill was introduced in the House to appropriate \$2,000,000, for extraordinary expenses which might be incurred in the war with Mexico. To this David Wilmot [Pa.],¹ a Democrat of anti-slavery principles, offered a proviso, which had been drafted by Judge Jacob Brinkerhoff [O.],² that if any part of the appropri-

¹ Wilmot was a lawyer who served in Congress from 1845 to 1851. From 1853 to 1861 he was presiding judge of the Federal District Court in Pennsylvania. He was Senator from 1861 to 1863, when he was appointed judge of the Federal Court of Claims.

² Brinkerhoff was a Democratic member of Congress from 1843 to 1847. He was a judge of the Supreme Court of Ohio from 1856 to 1871.

ation were to be used to purchase Mexican territory, the prohibition of slavery in the Ordinance of 1787 should apply. The amendment was adopted in the House by a vote of 83 to 64, and the bill was passed by a vote of 85 to 79. The bill failed to come to vote in the Senate owing to the closing of the session. During the recess of Congress, the legislatures of every free State and of Delaware approved the Proviso, members of both parties voting in its favor. It was expected that at the next session it would pass the Senate. Early in the session, therefore, Senator Lewis Cass [Mich.], in order to defeat the Proviso, enunciated a new doctrine in a letter to Alfred O. P. Nicholson, a Representative from Tennessee.

Sketch of Cass. Cass was born at Exeter, New Hampshire, where he was educated at the academy of the town. When the boy was seventeen his father, who had been in service as a major in the regular army in the Northwest Territory, was stationed at Wilmington, Del., where his family joined him. Lewis taught school in the year that he was there. The next year Major Cass settled upon a tract of land, given him for military services, near Zanesville, O. Lewis stopped on the way at Marietta, to study law under Governor Meigs. In 1803 he was admitted to the bar, and began practice at Zanesville. Elected to the legislature he materially assisted the Government in frustrating the designs of Aaron Burr by framing both the law that enabled the authorities to arrest the expedition, and the address of the legislature against the project. The ability thus displayed caused President Jefferson to appoint him marshal of the State. He served very efficiently as a colonel in the War of 1812, and, being paroled on General Hull's shameful surrender of Detroit, hastened

to Washington and made an indignant report of the affair. Exchanged, he was promoted to brigadier-general, and, as such, played a gallant part in the victory of General Harrison at the Battle of the Thames. He was left at Detroit in military command of Michigan, of which Territory he was also appointed civil governor. With 40,000 Indians and only 6000 white settlers in the Territory, his position was most difficult, but his long service of eighteen years was distinguished by remarkable efficiency. He negotiated twenty-two treaties with the tribes, securing the cession of immense tracts of land, instituted surveys, constructed roads and lighthouses, organized counties, etc., and all with extreme economy and scrupulous honesty. He planned and led the famous expedition of which Schoolcraft, the ethnologist, was a member and which explored the upper Great Lakes and the sources of the Mississippi, and published an account of it in the *North American Review* (1828-29). President Jackson appointed him Secretary of War in 1831. In this capacity he suppressed the Black Hawk rising, and successfully conducted the critical removal of the Cherokees from the Southern States across the Mississippi. It was the readiness of his department to use force against Nullification that chiefly made the movement abortive. In 1836 he submitted a report recommending a thorough system of national defense which is celebrated in our military and naval annals. He was minister to France from 1836 to 1842. He secured the coöperation of that country in resisting the British claim to right of search, his protest, printed as a pamphlet, having an enormous circulation throughout Europe, whereat the English were greatly incensed. He was elected to the Senate in 1845, and resigned in 1848 to become the

Democratic candidate for President. On the election of Zachary Taylor, his Whig opponent, he returned to the Senate, where he served until 1857. He opposed both "Southern rights," and the anti-slavery policy of the North, refusing, however, to vote on the Fugitive law, which was opposed by his State. President Buchanan appointed him Secretary of State in 1857. Inclined at first to compromise on the issues leading to secession, he stoutly upheld national sovereignty when it came to an issue, and resigned his position upon the President's refusal to reinforce Fort Sumter, and was a strong Union man during the war. He died in 1866.

In his Nicholson letter, Senator Cass wrote that the principle of the Wilmot Proviso "should be kept out of the national legislature, and left to the people of the Confederacy in their respective local governments." This became known as the doctrine of "popular sovereignty," and was eagerly accepted by the Southern Democrats and pro-slavery Democrats in the North such as Stephen A. Douglas [Ill.], and they attempted to read the anti-slavery Democrats, such as Wilmot, out of the party.

The bill, with the appropriation increased to \$3,000,-000., was passed by the House on February 15, 1848, by a vote of 115 to 106. The Proviso was struck out by the Senate, and the bill in this form was accepted by the House on March 3, by a vote of 115 to 81. In the debates in the House, Wilmot defended his Proviso.

It is a part of the established law of nations that when territory is annexed all laws there existing not inconsistent with its new allegiance remain in force. California and New Mexico under Mexican rule were free soil. Shall the South invade this fundamental law? Shall it make this

government an instrument for the violation of its neutrality, and for the establishment of slavery in these territories in defiance of law? Must the North yield this? It is not, sir, in the spirit of the compact; it is not in the Constitution.

Mr. Giddings spoke in defense of the bill:

"Gentlemen of the South solemnly warn us that if we persist in our determination to exclude slavery from the acquired territory, the Union will be dissolved. For my part I prefer to see it rent into a thousand fragments rather than have my country disgraced and its moral purity sacrificed by the prosecution of a war for human bondage. I welcome the issue. It has to be met. There can be no compromise between slavery and freedom any more than between crime and virtue."

Constitutionality of Slavery in the Territories. On February 19, 1847, John C. Calhoun [S. C.] introduced in the Senate general resolutions on the constitutional principles of slavery in the Territories. He gave statistics to show that the balance of power was shifting in favor of the free States, and that, unless *all* the territory about to be acquired from Mexico, including that above the line of the Missouri Compromise, were to be left free to introduce slavery, the government would be overwhelmingly in the hands of the North. He said:

"Sir, the day the balance between the two sections is destroyed, the time is not far removed from political revolution, civil war, and anarchy. The South is the conservative portion of the country, and, with a due balance on their part, may for generations to come uphold this glorious Union of ours."

He endorsed the principle of Popular Sovereignty.

The people have a right to establish what government they think proper for themselves. The right of self-government on the part of individuals is not nearly so easy to be established by any course of reasoning as the right of a community or State to self-government.

He was ready to repeal the Missouri Compromise.

"I have always considered it as a great error, as highly injurious to the South, because it surrendered, for mere temporary purposes, those high principles of the Constitution upon which we ought to stand. The Constitution is a stable rock; a compromise is but shifting sand. It may be overruled at any time. I would rather meet any extremity on earth than give up one inch of the equality of the South —one inch of what belongs to us as members of this great republic. What! acknowledge inferiority? The surrender of life itself is nothing to this."

Senator Benton objected to laying aside pressing business to vote on "such a string of abstractions" as the Senator from South Carolina presented. Senator Calhoun answered:

"The Constitution is an abstraction. The Declaration of Independence was made on an abstraction. All great rules of life are abstractions. When I hear a man declare he is against abstract truth, in a case of this kind, I am prepared to know what his course may be. I certainly supposed that a Senator from the slave State of Missouri would support these resolutions."

Senator Benton replied:

"The Senator knows very well from my whole course in

public life that I would never leave public business to take up firebrands to set the world on fire."¹

Senator Webster then introduced resolutions to the effect that the war should not be prosecuted for acquiring territory to form new States of the Union. No action was pressed on either set of resolutions.

After the treaty of peace with Mexico a Senate committee framed a bill organizing the Territorial governments of Oregon, California, and New Mexico. Oregon was to be free soil, and in the other Territories the question of slavery in these Territories was to be left for subsequent action by Congress, the Territorial legislatures being inhibited from debarring slavery in the meantime. Six of the eight members of the committee voted for this arrangement. A minority report provided that the laws (anti-slavery) existing in California and New Mexico should continue in force.

In the course of the debate on the bill, the doctrine was advanced by Senator James M. Mason [Va.]² that the child of a slave woman follows its mother's condition.³ Senator Corwin commented upon this as follows:

What sublime morality, what lovely justice, combine to sanctify this article, and the kindred doctrine that lands

¹ In his *Thirty Years' View* (1856) Senator Benton commented on these "Firebrand Resolutions" of Senator Calhoun. The passage is reproduced in *Great Debates in American History*, vol. iv., p. 144.

² Senator Mason was a lawyer, who had served one term in the House (1837-39). He entered the Senate in 1847, and remained there until the secession of his State in 1861, when he became a commissioner of the Confederate government to Great Britain and France. On his way to Europe with John Slidell [La.], his fellow-commissioner, in the British steamer *Trent*, the vessel was stopped by the United States war-ship *San Jacinto*, and the envoys removed and imprisoned. They were released after a diplomatic controversy.

³ See page 149.

acquired by force become property, in that new decalogue of freedom which we say it is our duty to give to the world! All over the world [this was the Year of Revolution] the air is vocal with the shouts of men made free, and in God's name I ask, if freedom from political servitude be a boon to mankind, must it not be accepted with some gratulation that men have been released from personal servitude—absolute subjection to the arbitrary powers of others?

According to the doctrine preached by you in these halls—in free America—we should send the revolutionists of Europe not congratulation but commiseration—advising them to accept monarchy, the principle of which is *partus sequitur patrem*—the crown follows the father—a rule similar to your law that the chain follows the mother! Sir, in the days of 1776 the sons of Virginia had as little respect for that maxim, *partus sequitur ventrem*, as for that other cognate dogma, "Kings are born to rule."

If slavery were a curse to you in the beginning, but had struck its roots too deeply into your social system to be eradicated entirely, how can you call upon me, as a matter of conscience and duty, to transfer this curse to an area greater than that of the original thirteen States? Am I obliged to receive into my family a man infected with the small-pox? But the gentleman from Virginia says it must be done. Why? Because it is compassion to the slave; he cannot be nurtured in Virginia because her soil is worn out. Are the lands of Pennsylvania worn out? The slave has turned pale the land wherever he has set down his black foot! And must we transfer to the rich virgin soil of the Territories this principle of sterility, till barren desolation shall cover the whole land? By the same right of compassion you might call on Ohio to partake of the self-same curse, that would transform it also into a wilderness.

The Senator then instanced, as a sad commentary on the perfection of human reason, that the lawyers of the South, with few exceptions, held that Congress

had no power to prohibit slavery in the Territories, and that the lawyers of the North were a unit in the contrary opinion. One Senator objected, saying that the question of slavery was regulated by a line (36 degrees and 30 minutes). Corwin replied:

"Yes, and what is black on one side of the line is white on the other, turning to jet black again when restored to its original locality!"

He then inquired, if such absurd inconsistency prevailed in the Senate, how could he agree, as certain Senators demanded, that judgment on the question be left to the Supreme Court?

Had the Senate always obeyed the decision of the Court? When it decided, with John Marshall at its head, that Congress had power to establish the United States Bank, had not Jacksonian Senators curled their lips and declared, "We are judges for ourselves"?

To test the question of the legality of slavery permitted by this bill, to get it before the Supreme Court, a man must go to California with his slaves. I do not know how it may be in other parts of the world, but in Ohio we do not travel three thousand miles to get justice. In short, the bill does not enact a law, but a law-suit, and, while the decision is pending, slavery will have taken root, and appeal will be made by the advocates of slavery against interference with vested interests. If the slave appeals, he must, according to the rule, give twice the value of the property in question, in this case, of himself! However, while he is prosecuting the appeal, which will take at least two years, he can enjoy visiting old friends in Washington.

Senator Reverdy Johnson [Md.] defended the legal aspects of the bill.

Sketch of Johnson. Johnson was educated at St.

John's College in Maryland. Engaging in the practice of law at Baltimore he soon acquired a high reputation. After a long service in the State Senate, in 1845 he was elected to the United States Senate. While nominally a Whig, he was independent in politics, heartily supporting President Polk in his course in the Mexican War. He was appointed Attorney-General by President Taylor. On the accession of President Fillmore he resigned his position and resumed his law practice, appearing in almost all the celebrated cases in the country, and in one in England. His opposition on principle to the "Know Nothings" led him, with other Whigs, to join with the Democrats in the election of President Buchanan. In 1860 he became a supporter of Senator Douglas for the Presidency. He was active in the movement to conciliate the South on the eve of secession. He reentered the Senate in 1863 and served until 1868. He supported Lincoln's administration, and in 1868 he was appointed minister to Great Britain by President Johnson. In this capacity he negotiated the Johnson-Clarendon treaty for the settlement of the *Alabama* claims, which, however, was rejected by the Senate. He was so popular in England that the anti-British sentiment in America forced President Grant for party reasons to recall him in 1869. Although seventy-three years of age, he resumed his law practice, which he continued until his death by apoplexy in 1876. In 1872 he supported Horace Greeley for President. He was an author of law books. No man of his time was regarded as a more eminent legal authority. His speeches in the Senate were largely confined to constitutional issues.

In the debate on the Territorial bill he especially defended the Supreme Court.

While statesmen differed upon questions, the Court was usually unanimous. This was so in regard to the constitutionality of the United States Bank, which the Court upheld, against the majority opinion of Congress. The members of the Court were not politicians. They breathed a different atmosphere from Congress, and therefore constituted a proper third party to settle disputes.

The gibes of the Senator from Ohio about the expense incurred by a negro in conducting his case were unwarranted. There could not be found in the whole Southern bar a lawyer who would not gratuitously give his services to right a negro's wrongs. Besides, one test case would settle the whole question.

He was opposed to slavery, and therefore deplored the abolition agitation which prevented emancipation by the States. Anti-slavery men should apply their energies to their own States. In Ohio free negroes were treated as slaves.¹

The bill was adopted by the Senate on July 26, by a vote of 33 to 22. It was laid on the table in the House by a vote of 112 to 87, 8 Southern Whigs and 31 Northern Democrats voting with all the Northern Whigs in the affirmative. Alexander H. Stephens [Ga.], who voted to table, justified his action by saying the Supreme Court was certain to decide against slavery in the Territories, having repeatedly upheld the view that "the Constitution recognizes slavery wherever it exists by *local* law, but establishes it nowhere it is prohibited by law."²

¹ The repressive "black laws" of Ohio to which the Senator referred were abolished by the State legislature during the following year.

² Wheaton's Rep., viii., p. 589; xii., pp. 528-535. Peters' Rep., i., pp. 517, 542, 544; vi., pp. 86, 87; viii., pp. 444, 465; ix., pp. 133, 736, 747-749; x., pp. 305, 330, 721, 732; xii., p. 412.

In lieu of the bill Stephens urged that the Southern Representatives refuse to make any appropriations for carrying out the treaty with Mexico until the right to carry slaves into the Territories was secured.

Organization of Oregon Territory. On August 2, by a vote of 129 to 71, the House passed a bill to organize Oregon alone, with the prohibition of slavery. It was passed on August 10 in the Senate by a vote of 33 to 21, with an amendment offered by Senator Douglas eliminating the express prohibition of slavery. The House refused to concur in the amendment, and the Senate, on August 12, accepted the House bill. The reason for this concurrence was that on August 9, the Free Soil party had nominated ex-President Van Buren for President, and Charles Francis Adams [Mass.] for Vice-President, pledged against the extension of slavery in the Territories, and that defiance to this platform might increase the size of the new party to dimensions that would endanger the success of the old ones in the coming Presidential election.¹

President Polk approved the bill, but in so doing recommended that the question of slavery in the Territories be referred to their inhabitants. He suggested that a compromise might be arranged which, like the Missouri Compromise, would be acceptable to both sections of the country.

Presidential Campaign of 1848. The Democratic convention had met at Baltimore in May, 1848, and nominated Senator Cass for President and General William Orlando Butler [Ky.], a "hero" of the war, for Vice-President. The convention repudiated the doctrine of Popular Sovereignty, and of non-interfer-

¹ For the Senate debate on the Oregon bill see *Great Debates in American History*, vol. iv., p. 159.

ence by the Federal government with the rights of property (*i.e.*, slavery) in the States, yet, before Congress, then in session, dispersed, the first principle, as we have seen, became the leading tenet of the party as voiced by its Presidential candidate, and the second the inevitable corollary of the first.

The Whigs shrewdly nominated for President General Zachary Taylor [La.], who, though a slave-holder, had been opposed, as we have seen, to Polk's policy of invading the territory between the Rio Neuces and the Rio Grande, and yet had proved himself one of the two leading generals of the war which thereby ensued, Winfield Scott being the other. Millard Fillmore [N. Y.] was the nominee for Vice-President.

While the Free Soil candidates, Van Buren and Adams, secured no electoral votes, they polled 291,263 popular votes, which, being composed largely of anti-slavery Democrats, especially in New York, determined the election of Taylor and Fillmore, who received 163 votes to 127 cast for Cass and Butler. The Whig candidates received the votes of eight slave States, which greatly incensed the Northern Democrats who had remained loyal to the party, and they decided to cut loose from their Southern colleagues on the question of slavery in the Territories.

Extension of Constitution to Territories. In his last annual message (December 5, 1848) President Polk suggested referring this question to the Supreme Court.

In February, 1849, Isaac P. Walker [Wis.]¹ moved in the Senate to amend a general appropriation bill by extending the Constitution to the Territories. Upon this a constitutional debate, one of the most important

¹ Walker was a lawyer who served in the Senate from 1848 to 1855.

in American history, arose between Webster and Calhoun.

Webster opposed the amendment.

The thing is utterly impossible. All the legislation of the world, in this general form, could not accomplish it. And there is no cause for such legislative action. What is the Constitution? Is not its first principle that all within its comprehension shall be represented in the national legislature, with the right to debate and vote, and shall have the right also to vote for President and Vice-President, and would you extend these rights to the Territories?

SENATOR WALKER. It is not proposed to extend the Constitution beyond the limits to which it is applicable.

SENATOR WEBSTER. This limitation is then to be decided by the President—he is to have absolute and despotic power. No, there is no such thing as “extending the Constitution.” It cannot be extended over anything but States. It seems to be taken for granted that the right of trial by jury, the *habeas corpus*, and every principle designed to protect personal liberty is extended by force of the Constitution over every new Territory. This proposition cannot be maintained. To extend these rights requires a legislative act. The legislature and judiciary of Territories have always been established by a law of Congress. These principles do not, *proprio vigore*,¹ apply to a Territory, because a Territory, while such, is no part of the United States.

SENATOR CALHOUN. The Constitution pronounces itself to be the supreme law of the land.

SENATOR WEBSTER. What land?

SENATOR CALHOUN. The Territories are a part of the land of the United States. Wherever our flag waves, wherever our authority goes, the Constitution goes in all its suitable provisions. If it does not so go, how are we to

¹ “Of their inherent force.”

have any authority or jurisdiction whatsoever? Is not Congress the creature of the Constitution? And would it not be annihilated by the destruction of that instrument? Shall we, the creature of the Constitution, pretend that we have any authority beyond the reach of the Constitution? Sir, we were told a few days ago that the courts of the United States had made a decision that the Constitution did not extend to the Territories without an act of Congress. I am inclined to think that the report is an error, but if the courts have made such a decision, I, for one, say that it ought not and never can be respected.

Gentlemen of the North have put the South on high ground by admitting that their only means of putting their claims above ours is to deny the existence of the Constitution in California and New Mexico. That the States of the Union have a community of interest in the Territories is declared by the Constitution, and that there shall be no discrimination in favor of one section over another, such as the operation of the Constitution halfway over one portion and fully over another.

SENATOR WEBSTER. The decision referred to is in line with many decisions of the last thirty years.^x I am surprised to hear so distinguished a strict constructionist affirm that the Constitution extends to the Territories without showing us any clause in this instrument in any way leading to this result.

How could any government in the Territories proceed on the bare authority of the Constitution? Does the Constitution settle titles to land? Does it regulate the rights to property? Does it fix the relations of parent to child, and of guardian to ward? These things are left to derive their existence from State enactments.

Congress has established principles in regard to the Territories that are utterly repugnant to the Constitution. The courts of the United States are independent, the judges holding office upon the tenure of good behavior. Territorial

^x See note on page 226.

judges are removable at executive discretion. Did the writ of *habeas corpus* or trial by jury exist in Louisiana during its Territorial existence?

The Constitution does *not* declare itself the supreme law of the land, but that it *and the laws of Congress passed under it* shall be this supreme law. British colonies, until Parliamentary provision is made, are not under the dominion of English law. On exactly the same principle territories coming into possession of the United States, since we have no *jus coloniae*, remain to be subject to the operation of our supreme law by an enactment of Congress.

SENATOR CALHOUN. How does Congress get any power over the Territories?

SENATOR WEBSTER. It is granted by the Constitution in so many words.

SENATOR CALHOUN. This I claim as the strongest reason for my contention, and yet the Senator says I cite no clause in the Constitution!

I have never contended that the Constitution was of itself sufficient for the government of the Territories without the intervention of legislative enactments. It is nevertheless the supreme law in obedience and conformity to which all legislative enactments must be made. Let us look at the negative provisions of the Constitution. Can Congress establish titles of nobility in California? And if the negative provisions extend to the Territories, why not the positive?

SENATOR WEBSTER. I have already shown positive provisions which do not so extend. I can give another remarkable instance—Federal internal improvements. The Senator denies the constitutionality of these within the States, but there is not a gentleman on his side of the Chamber who has not time and again voted public money for improvements in the Territories, under the conception that they are not parts of the Union.

Our history is uniform on the government of Territories. In all cases from the Louisiana Purchase downward by every act of Congress, and by all judicature on the subject,

it has been held that the Territories were to be governed by a constitution of their own, framed by a convention, and, in approving that constitution, that Congress was not necessarily confined to those principles which bind it in the case of legislation for the States.

SENATOR CALHOUN. I had supposed that all the Territories were a part of the United States. They are called so.

SENATOR WEBSTER (in his seat). Never.

SENATOR CALHOUN. At all events they belong to the United States.

SENATOR WEBSTER (in his seat). The colonies of England belong to England, but they are not a part of it.

SENATOR CALHOUN. Since the United States have authority over whatever belongs to them, I care not in what light the subject may be placed.

Senator John M. Berrien [Ga.] moved to modify the Walker amendment to read that the Constitution extended over the Territories, *insofar as its provisions could apply*; this was accepted by the mover, and the amendment was adopted by a vote of 29 to 27.

Senator Webster made a determined effort to have the Walker amendment revoked, and succeeded in doing so in the last hour of the session.

On February 27, 1849, the House, by an almost sectional vote of 126 to 87, passed a bill organizing California as a free Territory. The Senate did not act on the bill. The organization of New Mexico did not come to a vote in either House or Senate.

CHAPTER VIII

THE COMPROMISES OF 1850

President Zachary Taylor Advocates Popular Sovereignty in the Territories—Sketch of Taylor—Senator Stephen A. Douglas [Ill.] Reports Bill to Admit California into the Union with Popular Sovereignty—Compromise Resolutions of Senator Henry Clay [Ky.] on Slavery—Debate: in Favor, Mr. Clay, Thomas H. Benton [Mo.], Daniel Webster [Mass.]; Opposed, Henry S. Foote [Miss.], Jefferson Davis [Miss.], John C. Calhoun [S. C.]—Sketch of Foote—Resolutions are Referred to Committee of Thirteen—Its Report—The “Omnibus Bill”—Death of President Taylor and Accession of President Millard Fillmore—Sketch of Fillmore.

GOLD had been discovered in California on January 19, 1848, and within a year the population had so greatly increased that the people applied for admission to the Union. In a special message to Congress, January 21, 1850, President Taylor urged the admission of California under the constitution which she had prepared, and announced himself in favor of the principle of Popular Sovereignty.

Sketch of Taylor. Taylor was born in Orange county, Va., in 1784. In the following year his father, a colonel in the Revolution, removed to a farm near the present city of Louisville, Ky. In 1808 Zachary was appointed a first lieutenant in the regular army. He was promoted to major for his services against the Indians in the War of 1812. Reduced to the rank of captain in the limitation of the army that followed the

war, he resigned and retired to his farm, but was recalled, and appointed lieutenant-colonel in charge of Fort Snelling (now St. Paul, Minn.). In the Black Hawk War he became colonel. In 1836 he defeated the Seminoles in the decisive battle of Okechobee, and received the office of brigadier-general and chief command of Florida. In 1840 he was made commander of the southern division of the western army, and made his family home at Baton Rouge, La. His early services in the Mexican War have been recounted. After his victories within the present borders of Texas, he crossed the Rio Grande, and captured Monterey on September 24, 1846. On February 24, 1847, he defeated Santa Anna at Buena Vista. His military reports exhibited unusual vigor of thought and literary quality, the result of his extensive reading of history. Because of the ability thus displayed, and the fact that he was in hearty accord with the Whig attitude toward the war, he was, as we have seen, nominated for President by that party. When elected President, being conscious of his lack of knowledge in civil affairs, he chose a Cabinet of distinguished statesmen, all of whom were lawyers. Among these may be mentioned Senator John M. Clayton [Del.], Secretary of State, and Reverdy Johnson [Md.], Attorney-General. He died in office on July 9, 1850. In his short administration he revealed an unusual breadth of statesmanship, refusing to remove able Democratic office-holders at the demands of Whig partisans.

The Senate referred the question of the admission of California to a select committee of which Stephen A. Douglas [Ill.] was chairman. On January 29, 1849, Douglas reported a bill to admit California "upon an equal footing with the original States *in all respects*

whatsoever, so soon as it . . . should establish . . . a constitution and republican form of government." As it was certain that this constitution would prohibit slavery, this condition rendered the first declaration a mere sop to the South, and implicitly recognized Popular Sovereignty.

Clay's Resolutions on Slavery. On the same day, Henry Clay [Ky.], who had returned to the Senate for this express purpose, presented to that body his famous compromise resolutions on the subject of slavery. Upon them a prolonged debate occurred, in which the other chief speakers in favor of the resolutions were Thomas H. Benton [Mo.], and Daniel Webster [Mass.]; those opposed were Henry S. Foote [Miss.],¹ Jefferson Davis [Miss.], and John C. Calhoun [S. C.].

Senator Clay's preamble stated the desirability, for concord of the Union, of settling the slavery controversies upon an equitable basis. His first resolution was that California ought to be admitted into the Union without restriction of slavery. His second was that, as slavery does not exist by law in the territory acquired from Mexico, it was inexpedient for Congress to provide for its introduction, and that territorial governments ought to be established over all the Mexican acquisition without restriction of slavery. On the California resolution he said:

¹ Foote was a lawyer, who had entered the Senate in 1847. In 1852 he was elected Governor of Mississippi after a hard-fought contest with Jefferson Davis over the issue of the State remaining in the Union in despite of Northern anti-slavery activity, Foote taking this position. In the Senate he was an ardent republican of world-wide sympathies, supporting the resolution to recognize Louis Kossuth, the Hungarian patriot who had fled to America, and the resolution to extend sympathy to the Irish revolutionists. He was a member of the Confederate Congress.

California in convention, by a unanimous vote, embracing slave-holders from Mississippi and other Southern States, has declared against the introduction of slavery.

The third and fourth resolutions fixed the boundaries of the State and provided for Federal assumption of its obligations to Texas. The fifth resolution declared the inexpediency of abolishing slavery in the District of Columbia without consent of Maryland and the people of the District, and compensation for the slaves. The sixth, that it was expedient to abolish in the District the trade in slaves brought from or to be transported beyond its limits.

The fifth resolution was one which he had introduced in the Senate, in 1838, and which had been adopted by a four-fifths vote. The sixth struck at an evil which had been pronounced an abomination many years before by John Randolph [Va.].

"Let the slave dealer of Virginia or Maryland go to ports in these States; let him not come here and establish his jails and put on his chains, and shock our sensibilities by a long chain of slaves passing through that avenue leading from this Capitol to the house of the Chief Magistrate of one of the most glorious republics that ever existed."

The seventh resolution declared that more effective provisions than the Act of 1793 should be made for the return of fugitive slaves. The eighth was that Congress had no power to interfere with the trade in slaves between the slave States, this depending exclusively on State laws.

All these resolutions, said Mr. Clay, ought to be acceptable to both parties, because of their equal concessions. He

might have asked greater concessions from the North, since it was more populous than the South, and greatness and magnanimity should ever be allied.

It was the South that had to make all the material sacrifices, those of the North being matters of sentiment. Whose house was in flames? Whose women and children were flying from the calamitous scene, imploring with shrieks and lamentations the aid of high Heaven? Yours in the free States? No. And yet the conflagration had been produced by your measures—not intentionally, but by their inevitable tendency.

Senator Clay closed his speech with the relation of an incident which had occurred that very morning. A man had presented him a fragment of the coffin of Washington.

It was a warning voice from the grave to Congress to pause and reflect before they lend themselves to any purposes which would destroy that Union which had been cemented by the exertions and example of the Father of the Country.

Senator Foote objected to the resolutions:

1. Because they implied that Congress had power to legislate on slavery in the District of Columbia, which he denied.
2. Because they asserted that slavery does not now exist in the territory acquired from Mexico, whereas the treaty with that country carried the Constitution, *with all its guarantees*, into all that country, and slaveholders were thus free to take their slaves thither.
3. Because he was unwilling to make a solemn legislative declaration on whether or not it was likely that slavery would be introduced into this territory. This the future alone could decide.

Senator Foote approved the abolition of the slave trade in the District of Columbia, the return of fugitive slaves, the establishment of Territorial governments without restriction of slavery, and the non-interference by Congress with the slave trade between the slave States.

He saw no objection to admitting California above the line of the Missouri Compromise as a free State, provided another slave State be laid off in Texas, to keep the "equi-ponderance" of the sections. This he would agree to solely as a compromise, in order to save the Union, which was as dear to him as to any man living.

Senator Mason could give his assent to no resolution except that on the organization of Territorial governments without restriction of slavery.

He entered a protest on the part of Virginia against the view that the territory in question was now free. He regretted that the venerable Senator from Kentucky had introduced such disturbing resolutions.

Senator Davis said that the resolutions of 1838 were offered, not by Senator Clay, but by Senator Calhoun (who was not at the moment present), Clay having proposed amendments thereto.

They went further than the Senator from Kentucky has declared. [Here he read the resolutions.] They fully and broadly asserted the danger resulting from interference with slavery in the District of Columbia as *trenching upon the rights of the slaveholding States*. Twelve years have swept away remembrance of this principle, and a distinguished Senator from one of these States, to whom the country had looked for relief from dissensions, instead of raising new

barriers against encroachment, dashes down those hitherto erected, and augments the existing danger.

And he calls this a compromise! Is a measure in which the minority receive nothing a compromise? I here assert that I will never take less than the Missouri Compromise, and I demand that slaves may be taken to any territory south of the line established by it, and extended to the Pacific Ocean.

Senator Clay declared that there was not a word in the resolution of 1838 that implied a pledge of faith to any States other than Virginia and Maryland, and, further, that it opposed abolition of slavery in the District of Columbia *without compensation*.

He said that the constitutional obligation that Congress legislate for the Territories included jurisdiction over slavery, but that there was an implied faith that the power be not exercised to abolish slavery in the District of Columbia so long as slavery existed in the States from which the District had been formed. As the cession from Virginia had been restored to that State,¹ Maryland was now alone to be considered.

He opposed Senator Davis's view that slavery should be established by Congress in the territory south of the Missouri Compromise line.

Though coming from a slave State, I say that no earthly power could induce me to vote for a specific measure to introduce slavery either north or south of that line. I am unwilling that future inhabitants of California and New Mexico shall reproach us for what we reproach Great Britain. If the citizens of these Territories come here with provisions establishing slavery, I am for admitting them, for then it will be their own work.

¹ See page 163.

Senator Clay closed with a reiteration of his view that slavery did not exist in these Territories, but he did not argue the question. Senator Davis charged him, therefore, with "firing a volley of blank cartridges" in order that he might "come up under cover of the smoke and make a charge upon us before we saw him."

The Senator has set up his own cob-house to show how skilfully he could knock it down. It is no fabric of mine. Nevertheless we are willing to compromise on slave territory south of the Compromise line, and free territory north of it. This was in accord with the spirit if not the letter of the original Compromise. It is the effect and not the form that we should consider in this crisis. The question cannot be left open after what has been said to-day. What matters it whether slavery be excluded under Mexican law or by the operation or inoperation of Congressional law? The effect is the same, and it is unjust to the South, whose equality with the North was intended to be secured by the Missouri Compromise.

Senator Calhoun said that anti-slavery agitation had reached a point where it endangered the Union.

This was not, as claimed, the work of disappointed politicians who saw in it a chance to retrieve their fortunes. On the contrary party ties caused all the politicians to desire to repress the agitation. It was the people, North and South, who were wrought up on the question. The South sincerely believes that, as things are now, it cannot, consistently with honor and safety, remain in the Union.

On February 5 the debate was resumed. Senator Benton cited Mexican laws to show that slavery had been abolished in Mexico before the cession of California and New Mexico.

This shows that the Wilmot Proviso, in respect to these countries, is an empty provision, a cloud without rain—unless it be a rain of blood.

Senator Calhoun, being indisposed, had his speech read. It showed the growing political preponderance of the free States. Five new States would probably be shortly added to their number, making twenty-three free States to fifteen slave ones, with no new slave States in prospect.

Had this preponderance been the work merely of time the South would not complain, but it was produced by the legislation of Congress. This was threefold: (1) a series of acts excluding the South from the common territory of the Union; (2) a system of revenue and expenditure imposing the burdens of taxation on the South without corresponding benefit; and (3) a system of political measures whereby the original character of the Federal government had been radically changed.

As acts of the first class he cited the Ordinance of 1787, the Missouri Compromise, and the Oregon act. If slavery were debarred from the Mexican acquisition, the North would have acquired three fourths of the domain annexed since the formation of the nation.

As acts of the second class he cited the tariff laws, that mulcted the consuming South to the benefit of the manufacturing North, which received most of the disbursements of the revenue thus received, and so unduly increased in wealth and population attracted by wealth.

As acts of the third class he cited those transforming the Federal Republic into a "consolidated democracy, as despotic in its tendency as any absolute government that ever existed."

The South might have acquiesced in all this had not her peculiar institution of slavery been also attacked in its home. Religious Northerners mistakenly regard themselves

as implicated in the "sin" of slavery, and so required to suppress it by every means. Those less fanatical regard it as a crime against humanity, and accordingly feel bound to give it no support. On the contrary Southerners look on the relation between master and slave as one that cannot be destroyed without subjecting the two races to the greatest calamity, and so feel bound in honor and interest to maintain it. Something, therefore, must be done, if secession of the South is to be prevented. Indeed, as events are now moving it will not have to be accomplished by an overt act. Anti-slavery agitation will of itself effect this. Already it has snapped some of the most important of the ties of union, and greatly weakened others. Churches are divided North and South on the subject of slavery; parties are breaking up on the issue.

The Union cannot be saved by eulogies upon it. The cry of "Union, the glorious Union!" can no more prevent disunion than the cry of "Health, glorious health!" by a physician, can save a patient.^x The North must abstain from violating the Constitution by its acts against the Fugitive Slave Law.

Nor can the Union be saved by invoking the name of the illustrious Southerner whose mortal remains lie at Mount Vernon. The fame of Washington rests on his care to avoid wronging others.

The plans proposed by the Senator from Kentucky (compromise) and the Administration (Popular Sovereignty) cannot save the Union. That of the President is in effect the Wilmot Proviso, to which the South is firmly opposed as unjust and unconstitutional. Indeed, the Proviso is the less objectionable. It goes to its object boldly and distinctly. Popular Sovereignty is plausible, but insidious and unsound. A Senator from Texas, now absent [General Samuel Houston] says that the people of the Territories

^x Evidently the Senator would not be a "New-Thoughter" if he were alive to-day.

have "the same inherent right of government as the people of the States." This is unconstitutional, and opposed to the practice of our government from its beginning. The people of California who have framed a constitution excluding slavery have usurped the sovereignty of a State and the authority of Congress. What they have done is revolutionary in character and anarchical in tendency. The blame, however, does not rest on them but on those who have induced them to take this course—Senators and the President whose words have incited their action.

California should be remanded to the Territorial condition, as was once done in the case of Tennessee.¹

How, then, shall the Union be saved? There is only one way—by a full and final settlement on the principles of justice of all issues between the sections. The North as the stronger party must do this. Let it give the South an equal right in the Territories, faithfully fulfill the return of fugitive slaves, and, by Constitutional amendment, guarantee political equality between the free and slave States. The North cannot refuse this without justly exposing herself to the charge that her love of power and aggrandizement is greater than her love for the Union. If she refuses this act of justice, let us part in peace. The admission of California as a free State we shall regard as an act of defiance.

Senator Webster replied to Senator Calhoun. After an introduction breathing devotion to the Union, he said:

¹ In 1784 North Carolina ceded its territory across the mountains to the Federal government, retaining for two years, however, full sovereignty over it. The inhabitants, indignant at a transfer made without their consent, formed the State of Franklin, with John Sevier as governor. Congress ignored their request for recognition of the State, and North Carolina asserted its jurisdiction. For a time there were two sets of officers in the State; the people refused to pay taxes to either. At the expiration of Sevier's term the State of Franklin ended.

As the acquisition of the lands from Mexico was to be largely in the latitude of the Southern States, these expected that they would be added to our slave territory. Events have turned out otherwise, bringing upon us this vexed question of slavery. [Here Webster corroborated Calhoun's account of the division of religious sentiment, etc., on slavery between the North and South.]

Both parties contain extremists. There are men who, in disputes of this sort, deal with morals as with mathematics, thinking what is right may be distinguished from what is wrong with the precision of an algebraic equation. They are too impatient to wait for the slow progress of moral causes in the improvement of mankind. Here lies the cause of animosity between the sections.

In the beginning of the country slavery was held, North and South, to be an evil. Indeed, the North, unfamiliar with the institution, was not so much excited against it as the South. Southerners felt it a reproach. Madison successfully opposed the introduction of the word "slave" into the Constitution. There was perfect concurrence in 1787 between Congress and the Constitutional Convention, which resulted in the Ordinance of that year excluding slavery from the Northwest Territory. The Senator from South Carolina, whose health does not allow him to be present [here a Senator said, "He is here," and Webster replied, "I am happy to hear it; may he long enjoy health to serve his country"], considers this Ordinance as the first of a series of measures to enfeeble the South, and yet it was passed with the unanimous concurrence of that section.

Senator Webster then described the change in Southern sentiment on slavery, ascribing it to the growth of the cotton industry.¹

This brought about a desire for more slave territory. These acquisitions were not the act of time and nature but

¹ See page 135.

of men, far more than were the acts complained of by the Senator as aggrandizing the North.

Here Webster presented his basic proposition:

There is not, at this moment, within the United States or the Territories, a single foot of land the character of which, as free or as slave soil, is not fixed by some irrepealable law beyond the power of action of this government.

The law of nature has settled forever, with a strength beyond all human enactment, that slavery cannot exist in New Mexico or California. I would not vote to put any prohibition of slavery in the Territorial organization of the former, because it would be as idle so to do as to reaffirm an ordinance of nature, or reenact the law of God. I would put in no Wilmot Proviso to wound the South.

The Senator then deplored the mutual recrimination of North and South as tending to alienate the sections. One Southern complaint he admitted to be just—the evasion by Northern legislatures of the constitutional obligation to return fugitive slaves. A bill, he said, was preparing by the Judiciary Committee of the Senate, to enforce the obligation, and this he intended to support. He also said that he would refuse to obey any instructions which his State of Massachusetts might present on interference with slavery in the States. He then reprobated the Abolition societies for defeating their own cause by stirring up resentment in the South, citing the sudden cessation of debates in the Southern legislatures on the gradual emancipation of slavery, upon the inauguration of the Abolition movement.¹

I wish to know whether anybody in Virginia can now talk as John Randolph and others did in 1832, sending

¹ See page 163.

their remarks to the press. In the last twenty years the Abolitionists have spent money enough to purchase and send to Liberia every slave in Maryland, but I have yet to hear that their benevolence has taken this particular turn.
[Laughter.]

The violence of the Northern press is complained of. Why, sir, the press is violent everywhere! This we must endure for the sake of civil liberty. There are, I am sorry to say, violent speeches made in Congress. In truth, the vernacular tongue of the country has become greatly corrupted by the style of our Congressional debates.
[Laughter.] If these vitiated the principles of the people as they have depraved their taste, I should cry out, "God save the Republic!"

There are also complaints of the North against the South. The first and gravest is the eagerness of the South to extend and extol slavery, which at the adoption of the Constitution it claimed was a decaying institution, and one which it deplored. Southern Senators are continually drawing contrasts between the happy condition of the slaves and the hard lot of Northern laborers. Who are the laboring people of the North? They are the North. What wonder that such remarks stir our resentment!

The South, too, takes free negroes off Northern vessels touching at its ports, and imprisons them until the vessels sail. This is not only irritating, but exceedingly inconvenient.¹ The mission of Samuel Hoar, of Massachusetts, some time ago to South Carolina was a well-intended effort to remove this complaint.²

Senator Webster then deplored the threats of secession.

¹ Webster evidently refers to the shipmasters and not to the negroes!

² Hoar was a graduate of Harvard, an eminent lawyer, and a Congressman from 1835 to 1837. His mission to South Carolina took place in 1844. He was expelled from Charleston by act of the State legislature. He was the father of Senator George Frisbie Hoar.

There can be no such thing as peaceable secession. I will not state what might produce the disruption of the States, but, as plainly as I see the sun in heaven, I see that disruption must produce a war !

A voluntary separation with alimony on both sides! What would be the result? Which States are to secede? Which remain American? Over which is the flag of the Republic to float? What is to become of the army?—the navy?—the public lands? We could not sit down here to-day and draw a line of separation which would satisfy any five men in the country. There are natural causes which would keep us and tie us together, and there are social and domestic relations which we could not break if we would, and should not if we could.

Can we cut the Mississippi in two at the mouth of the Ohio? What would then become of Missouri? No, sir; there will be no talk of secession. Gentlemen are not serious when they talk of secession.

Let us rather talk of Union. Let us make our generation one of the strongest and the brightest links in that golden chain which is destined to grapple the people of all the States to the Constitution for ages to come.

On motion of Senator Foote the Clay resolutions were referred to a Committee of Thirteen who were instructed to "mature some scheme of compromise for the adjustment of all pending questions growing out of the institution of slavery."

Senator Calhoun died on March 31. Extended tributes were paid him by Northern as well as Southern statesmen.

Report of the Committee of Thirteen. On May 8, 1850, Senator Clay, as chairman of the committee, made its report. In the first recommendation alone was the committee unanimous.

1. If a new State is to be carved out of Texas, the question of slavery shall be settled by vote of its inhabitants.
2. Irregularity of California's actions in applying for admission into the Union shall be overlooked, and her application shall be granted.
3. New Mexico and Utah shall be organized as Territories.
4. Their organization as such shall be combined in one bill with the admission of California into the Union. [Certain Senators would not vote for the admission of the State, except upon condition that the Territories be organized at the same time.]
5. The joint bill shall omit any reference to slavery. Hereafter this question shall be decided on the principle of Popular Sovereignty.
6. Texas shall relinquish her territorial claims to New Mexico for a pecuniary consideration made by the Federal government, which shall reimburse itself by the sale of the relinquished lands.
7. The Fugitive Act of 1793 shall be made more effective. A decision of the Supreme Court has countenanced States in their refusal to assist in the enforcement of the act. The committee, however, believes the intention of the Court has been misunderstood, and that it did not imply that State laws affording facilities in the way of recovering fugitives would be unconstitutional. The owner of a fugitive shall carry with him to the State where the fugitive is found legal proof of his title. If the amended law prove insufficient to restore fugitives, the Federal government shall indemnify their owners.
8. Slavery shall not be abolished in the District of Columbia, because this would alarm the slave States. Besides, it is rapidly diminishing in the District. The slave trade, however, shall be abolished there.

Bills were presented by the committee to execute its several recommendations.

Anti-slavery men were indignant at the abandonment of the Wilmot Proviso by some of the Northern men on the committee, particularly Webster. Whittier, rather in sorrow than in anger, wrote a poem upon his defection entitled *Ichabod*, i.e., "The glory has departed."

The Omnibus Bill. The debate on the "Omnibus Bill," as the compromise measure of the Committee of Thirteen was popularly termed from its heterogeneous character, was inaugurated in the Senate on July 22 by Henry Clay. In the course of his speech he stated that if Southerners executed their threat of secession they would be traitors.

The bill pleased no one except the majority of the committee in its entirety. One by one it was shorn of its members until all that remained of it was the provision for the Territorial organization of Utah, the least important of all. It was received in this form on July 31 by roars of laughter. However, on August 7, the Senate passed a bill fixing the boundaries of Texas, and, on August 12, a bill admitting California into the Union as a free State. A protest of Southern Senators against the second bill was tabled on August 15 by a vote of 22 to 19, and bills organizing New Mexico and Utah as Territories, without mention of slavery, were passed. The House concurred in these bills with an amendment that no citizen in the Territories "should be deprived of his life, liberty, or property except by judgment of his peers or the laws of the land." On September 9 this amendment was accepted by the Senate, and the bills received the signature of President Fillmore, Taylor having died on July 9.

Sketch of Fillmore. Millard Fillmore was born in 1800 in Cayuga county, N. Y. His father had taken a perpetual lease of wholly unimproved and heavily

timbered land, and here the son labored, with only a little schooling each winter. The home library consisted of a Bible and hymn-book, and, until he was nineteen, Millard never saw even a history or map of the United States. His father lost the land through a defective title after his arduous labor in developing it, and was forced to become a tenant of a sterile farm, and apprentice his son, at the age of fourteen, to a cloth-maker. The boy was harshly treated, and, after a row with his employer, set out for his father's house a hundred miles distant on a tramp through the primeval forest. He said, in his autobiography, that this injustice had a marked effect on his character.

"It made me feel for the weak and unprotected, and to hate the insolent tyrant in every station in life."

He secured employment in carding and cloth-dressing, studying while at the carding machine his sole book, a small dictionary. At the age of nineteen he began the study of law with a country practitioner, paying for his instruction and board by services in the office, and teaching school to secure money for other expenses. He was admitted to the bar at the age of twenty-three, and began practice in Aurora. In 1830 he removed to Buffalo, and became a partner in a law firm which soon became the most prominent in western New York. He entered the legislature, where he distinguished himself by advocating repeal of imprisonment for debt. A bill to this effect was drafted by him, and passed in 1831. He served in Congress as a Whig from 1833 to 1835, and from 1837 to 1843, becoming in 1841 chairman of the Ways and Means Committee, in which capacity he drafted the Tariff Act of 1842, and supported its provisions on the floor with thoroughness and ability.

He digested with great labor all the laws relating to appropriations, and procured the passage of an act requiring all departments of government, when they submitted estimates of expenses, to accompany these with references to the laws authorizing the same—a practice which has continued to the present time.

In 1844 he was candidate for Governor of New York, but was defeated in that year of Whig disaster. In 1847 he was elected comptroller of the State. In his report of 1849, he suggested the establishment of national banks, on the principle that was put into operation during the Civil War by Secretary of the Treasury Salmon P. Chase.

As we have seen, he was elected Vice-President in 1848. He presided with decision over the Senate in the heated debate on the Clay compromise measures, and with such impartiality that none of the Senators knew his own opinion on them. However, he confided to President Taylor, that, in case of a tie, he would give the casting vote in their favor. His own solution for the slavery question was compensated emancipation, which Lincoln later recommended.

His chief acts as President appear elsewhere in these pages, as well as his subsequent candidacy for President on the ticket of the American party. During the Civil War he heartily supported Lincoln's administration. Until his death in 1874 he was largely engaged in charitable and educational work. He established the Buffalo Historical Society.

Alexander H. H. Stuart [Va.], Fillmore's Secretary of the Interior, said of the President^x:

Mr. Fillmore was a man of decided opinions, but he was always open to conviction. When, however, he had care-

^x Appleton's *Cyclopædia of American Biography*, vol. ii., p. 455.

fully examined a question and had satisfied himself that he was right, no power on earth could swerve him from what he believed was his duty. While he had enjoyed none of the advantages of early association with cultivated society, his manners were graceful and polished—the natural outward expression of inward refinement and dignity of character. He had the peculiar faculty of adapting himself to every position to which he was called. Congressmen declared that he was born to be the chairman of the Ways and Means Committee. Though it was predicted that he would fail as presiding officer of the Senate, his conduct of that trying position commanded the applause of the Senators. And when he advanced to the highest office of our country, he so fulfilled his duties as to draw forth the commendation of the ablest men of the opposite party.

CHAPTER IX

THE FUGITIVE SLAVE LAW

The Fugitive Slave Law of 1850—The Nashville Convention—Controversy between Southern Unionists and Secessionists—Arraignment of President Fillmore by Representative Joshua R. Giddings [O.]—Manifesto of Representative Alexander H. Stephens [Ga.] *et al.* against Slavery Agitation—The Shadrach Fugitive Case—Debate in the Senate on the Fugitive Law: in Favor, Henry Clay [Ky.], Stephen A. Douglas [Ill.], John M. Berrien [Ga.]; Opposed, John P. Hale [N. H.], Salmon P. Chase [O.], R. Barnwell Rhett [S. C.], and Jefferson Davis [Miss.]—Sketches of Chase and Rhett—The Abortive Secession Congress—Election to the Senate of Charles Sumner—Sketch of Sumner—His Debate on Slavery with George E. Badger [N. C.]—Sketch of Badger—*Uncle Tom's Cabin*—Election of President Pierce—The Burns Fugitive Case—Wendell Phillips and Theodore Parker Address Boston Mass-Meeting—Sketches of the Orators.

LATE in the session of 1849–50 the Senate had passed a bill for the return of fugitive slaves by a vote of 27 to 12, more than twenty Senators dodging the dangerous issue by refraining from voting. The bill was passed by the House in September, 1850, under similar conditions, and President Fillmore signed it on the 18th of the month. It provided:

That the powers of judges under the act of 1793 be given to United States commissioners appointed by the Territorial courts with additional judges appointed by the United States courts, to afford facilities for the arrest of fugitives; that the commissioners have concurrent jurisdic-

States, which merged into a Constitutional Union party that overweighed for a decade the secessionist sentiment.

Arraignment of President Fillmore. In his annual message early in December, 1850, President Fillmore declared himself in favor of the Fugitive Slave law, and said that he would use the army and navy, if need arose, to execute it. On the 9th of the month Representative Joshua R. Giddings [O.] arraigned the President for repudiating in this utterance the pledge of his party.

No public man of high standing, from the free States, has so suddenly and so boldly abjured the cause of freedom and, before the world, pledged fealty to the slave power save his Secretary of State [Daniel Webster], whose counsels he appears to have adopted.

The President may send against us his Swiss guards of slavery; he may drench our free land with blood, but he will never compel us to obey the law. He should have learned ere this that public sentiment, with an enlightened and patriotic people, is stronger than armies and navies; that he himself is but the creature of the people's will. Now in the enactment of this law the will of the people was not consulted. Their servants fled from this hall, and left the interests, the rights, and the honor of their constituents to be disposed of by slave-holders and their obsequious allies. This law was "conceived in sin, and brought forth in iniquity." It is due to the South that we should declare distinctly that the law *cannot* and *will not* be enforced. Our people, sir, know what law is. This enactment I call a law merely for convenience, because our language furnishes no proper term with which to characterize it. It has the *form*, but is destitute of the *spirit*, which is the essence of law. It commands the perpetration of crimes which no human enactment can justify. In this attempt to involve

our people in crimes forbidden by God and by humanity, and to command one portion of the people to wage war upon another, Congress was guilty of tyranny unexampled.

He contrasted Fillmore's policy with Jefferson's.

When Mr. Jefferson came into power he found men imprisoned under the Sedition law, which he deemed unconstitutional, and pardoned them. The Fugitive law is even more glaringly unconstitutional than the Sedition law. *The Federal government has no legitimate power to interfere, either for or against it, with slavery in any State.* Let Kentucky unaided get her slaves back as best she can from Ohio.

Sir, our people will continue to feed the hungry, to clothe the naked, and to relieve the oppressed, in accordance with that law which comes from God himself, and which no enactment of slave-holders and "doughfaces" can repeal or nullify.

He closed by prophesying a realinement of parties on the issue of slavery.

The President's position has released the Whigs from their allegiance. Their unity has gone. The party has departed from its principles, and has descended, step by step, until the remnant has literally become a slave-catching party. A great political revolution is going forward. The moral sentiment of the nation demands the repeal of those acts of Congress which enjoin the commission of crimes.

Attempt to Stop Slavery Agitation. Leading statesmen of the country vainly attempted to stay the progress of this "political revolution." On January 22, 1851, Alexander H. Stephens [Ga.], the leader of the Southern Whigs in the House, drew up a manifesto

which was signed by forty-four Senators and Representatives with Henry Clay at the head. It declared that the subscribers would not support any candidate for a Federal office who did not condemn further agitation of the slavery question. Abraham Lincoln, a devoted follower of Clay, visited the aged statesman at his home near Lexington, Ky., to gain light on the subject, and returned disillusioned of his respect for his old leader as a political guide, finding that his own clear moral perception afforded a truer illumination. Clay died in 1852, and Lincoln's eulogy of him is the most perfunctory of all his addresses.

Debate on the Fugitive Law. On February 15, 1851, at Boston, a fugitive slave named Shadrach, while the question of his extradition under the Fugitive law was before a commissioner, was forcibly rescued by a crowd of negroes, and smuggled into Canada. Two days later Senator Clay by resolution asked the President for information as to the measures he had taken to enforce the Act. On the 18th the President issued a proclamation commanding all military and civil officers, and entreating all citizens, to aid in executing the law. On the 21st he sent a special message to Congress in which he pledged himself to use all his constitutional powers to this end. This precipitated a great debate in the Senate on the Act. Leading speakers in its favor were Clay, Stephen A. Douglas [Ill.], and John M. Berrien [Ga.]; those in opposition were John P. Hale [N. H.], Salmon P. Chase [O.], R. Barnwell Rhett [S. C.], and Jefferson Davis [Miss.]. As a striking illustration of the maxim that politics makes strange bed-fellows, it will be noted that the extremists of the North and South here joined in denouncing the Act as unconstitutional.

Sketch of Chase. Salmon Portland Chase was a native of New Hampshire. His earliest teacher was Daniel Breck, afterward a jurist in Kentucky. He received a classical education at an academy at Windsor. His father, who had established a glass factory, was ruined by the lowering of the tariff on glass, and shortly after this died. There being eleven children in the family, Salmon's uncle Philander, the Episcopalian Bishop of Ohio, adopted the boy, and gave him a college education at Dartmouth. Upon graduation he established a school at Washington, and at the same time studied law under William Wirt. On admission to the bar he closed his school and set up an office in Cincinnati, where he soon obtained a large practice. He did not identify himself with either of the leading parties, having strong anti-slavery views. In 1837 he defended a fugitive slave woman by denying the constitutionality of the Act of 1793. An able lawyer in the courtroom remarked, "There is a promising young man who has just ruined himself." In the same year he defended James G. Birney for harboring slaves, and in 1838 published a condemnation of the Judiciary Committee of the Ohio Senate for refusing trial by jury to slaves. In 1841 he was one of the founders of the Liberty party, writing its address to the people, which demanded "absolute and unqualified divorce of the government from slavery." Thenceforth he devoted himself to agitating the principles of the party, continuing to act as counsel for fugitive slaves and their harborers. He was called by Kentuckians "the Attorney-General for runaway negroes," and "the Counsel for the Underground Railroad." He wrote the platform of the Liberty party in the Presidential campaign of 1844, and presided over the convention of the Free

Soil party that succeeded it in 1848. In 1849 he was elected to the Senate by a coalition of Ohio Free Soilers and Democrats, the latter having declared slavery to be an evil.

In the Senate he opposed the Clay compromises. When Pierce was nominated for President by the Democrats in 1852 on a platform approving these, he assisted in the organization of the Free Soil Democracy, and wrote the platform which it adopted at Pittsburg. He advocated the Pacific Railroad and the Homestead Law.

In 1855 he was elected by the anti-slavery men Governor of Ohio. In 1856 occurred the tragedy of Margaret Garner, a captured fugitive who attempted to kill all her children, and did kill her baby, to save them from the doom of slavery. This so aroused the people that Chase was reelected, even though the opposition to the Democrats was divided by the intrusion of the Know Nothing party.

Governor Chase became a leader in the newly formed Republican party. His career from this point onward falls without the scope of the present history.

Chase's later services to the country have unduly obscured the all-important part he played in the great legislative contest against slavery. Indeed, because of his indefatigable labor in organizing parties, writing platforms, and concentrating sentiment on practical issues, he may be called the "Sam Adams of Emancipation"; he equalled his prototype as an orator, excelled him as a debater, and was, in addition, a profound constitutional lawyer—indeed, he may be said to be the John Adams, as well, of the movement.

Sketch of Rhett. Rhett had been Attorney-General of South Carolina in 1832. He served in Congress

from 1837 to 1849, and in the Senate from 1850 to 1852. He became a member of the Confederate Congress. He was an early and ardent advocate of secession, holding that it was impossible for the South to remain in the Union and successfully maintain slavery on constitutional principles.

Senator Hale began the debate on the Fugitive law with his wonted sarcasm by ridiculing the President for calling upon all the forces of the government, and all the citizens of the country, to defend the great Republic against a handful of negroes.

Senator Clay expostulated against this view of the crisis.

Is there any other Senator who considers the Boston mob an isolated affair, and the work of negroes only? Do we not know that it is but a manifestation of an Abolition movement extending over all the country to incite violence and murder? The proclamation is aimed at all those who would put down the law and the Constitution, be they white or black.

Senator Chase said that it was remarkable that the very Senator who had most vehemently denounced agitation of the slavery question, and who had presented measures intended to allay it, should have furnished the occasion of almost every debate on the subject.

If each party rejects that portion of the compromise which offends its section, how can it be considered a settlement? Sir, it has none of the attributes of a settlement. The very Fugitive law under discussion will produce more agitation than any other which has ever been adopted by Congress.

It is impossible constitutionally to reclaim fugitives.

This was settled by the decision of the Supreme Court in the case of *Prigg vs. Pennsylvania*, which practically expunged the fugitive clause from the Constitution by denying to the legislatures of the States the power to legislate on the subject.

What is unusual in a rescue by force from legal custody? When has the Federal government taken notice of such before? The proclamation and the contemplated legislation must be intended to operate upon the public sentiment of the country to subjugate the people to the execution of the law. Shall we authorize the President to call out the militia to march on Boston? You cannot prevent the occurrences of such cases as Shadrach's by all the military force in the world. You cannot suppress the spirit of the people unless you are prepared to establish, and the people are ready to receive, a military despotism. Governor Gage once issued a proclamation against Boston, and it resulted, not in the suppression of public sentiment, but in a revolution.

Senator Douglas denied that the *Prigg* decision practically nullified the fugitive provision of the Constitution.

On the contrary it specifically upheld it, by saying that Congress must pass a law to carry the clause into effect, and that every citizen is bound to aid in its enforcement. If the Senator and those who act with him would obey that decision, the fugitives would be sent back. When the Senator and his associates, relying on that part of the decision which says that the Federal government cannot coerce the State legislatures, say they will not obey the Constitution, they raise the standard of rebellion against the Federal government. The Senator is almost alone in his position. I do not believe that the free States ever have sent, or ever will send, four Senators to this Chamber who claim that there is a "law higher" than the Constitution which authorizes them to commit treason by disobeying that instrument which they have sworn to support.

Sir, I hold white men now within the range of my sight responsible for the violation of the law at Boston. It was done under their advice and under the influence of their speeches. I hope when the judgment of the court shall be pronounced, it will fall upon these men, and not upon their ignorant and abused tools.

Senator Berrien repeated the familiar threat of secession:

Upon the faithful execution of the Fugitive Slave law depends the preservation of our much-loved Union.

Senator Rhett agreed with Senator Chase that the Fugitive law was futile.

Sir, the law is not always a law. Every lawyer knows that. A law, to have its practical effect, must move in harmony with the opinions and feelings of the community where it is to operate. The entire North is opposed to slavery in general and the Fugitive law in particular. Now you may multiply officers as much as you please; make every ship a prison, every custom-house a guard-room; nay, you may have a majority of the North in favor of the law, yet a formidable minority will defeat it. Out of from 15,000 to 30,000 fugitive slaves in the North only fifteen have been recaptured since the law was passed, and in each case it cost the master more than the value of the slave.

Therefore the South has been wronged in being induced to abandon for this law a more efficient remedy provided by the Constitution—for the State of the owner to demand directly of the State where the fugitive is, to deliver the slave up or pay for him. There is no constitutional right for the Federal government to enforce the demand, as the Supreme Court has adjudicated. The Court derives this power from "the absence of all possible provisions to the contrary" in

the Constitution. This begs the whole question. State sovereignty, which alone, according to the plain purport of the Constitution, had to do with the rendition of fugitive slaves, is thus arbitrarily put aside, and State legislation, the only efficient means of their recovery, is prohibited.

I know very well that these remarks tend to support the Abolitionists, and that I will be denounced for my words. But advocates of the Act are playing into the hands of the Abolitionists, who would like nothing better than that you should send an army to Boston, and so violate the principle of State rights for which we have been so long contending.

Sir, what is the foundation of Abolitionism? It is consolidation. He who filled the seat I now occupy [Senator Calhoun] said to the Senator from Massachusetts [Webster], now no longer in this body, in the great debate of 1833:

"If the principles you contend for are correct . . . you will make your people believe they are responsible for slavery, and [on] that day . . . the Union will be at an end. And you yourself will be the first to feel the effects of the doctrine you are now maintaining by being ostracized and scorned."

Although that great statesman did not live to see the fulfillment of his prophecy, we now see it. Where is the great statesman of Massachusetts in Massachusetts?

You have, by this course of consolidation, destroyed the bond of peace and brotherly love that has so long united North and South. My constituents look upon this Union, as carried out by the North, as a curse rather than as a blessing.

And for this Democracy under the leadership of the Senator from Kentucky is responsible. Every step taken under his compromises strengthened the consolidation party, and weakened their own. Shall that bright day ever come again when the Democratic party, disciplined by defeat, shall again put on its ancient armor and fight

for its principles, and the noble faith of the Constitution once more mount to victory? I fear not. The wheel of consolidation is destined to roll on, crushing interest after interest, all faith, brotherhood, and peace, until the whole fabric of the Union falls, a vast pile of ruin and desolation.

Senator Clay rebuked the arrogance of Senator Rhett in putting his opinion against that of the Supreme Court, by relating the remark of the late Chief-Justice Marshall to a lawyer who had laid down the principles of the Constitution to the Court: "Mr. Counsel, I really think there are some things which this Court may be presumed to understand."

The Senator and his school place their own opinions against those of the Supreme Court, of Congress, of all the Presidents from the beginning of the country. Yet it was the colleague of the Senator [Robert W. Barnwell] who originally introduced the Fugitive bill.

The Senator says that the more you limit the Constitution the more you add strength to it. Then I suppose that, if all the powers of the government are taken away, the Union will be perfected. But who is to decide on either stretching the Constitution or limiting it? What man, mortal, fallible man, can get up here and say that the Constitution means this or that, and that all others who give it a different construction are consolidationists and traitors? I never hear a member talk about being a State-rights man emphatically and exclusively, a Simon-pure, that I did not feel the emotions of Junius whenever he saw a Scotchman smile. [Laughter.]

The Senator from Ohio [Chase] anticipated a boundless fund of agitation in the compromise measures. Instead of this, peace has been produced surpassing my most sanguine anticipations. There is one exception. I predicted that the ultra Abolitionists would not be tranquilized; that they would denounce the existence of the Union. Did the

Senator from Ohio suppose we had undertaken the herculean task of pacifying his friends?

SENATOR CHASE. Does the Senator enumerate me among those who wish to dissolve the Union?

SENATOR CLAY. No, sir; I only mean to say he is in bad company. [Laughter.] If the Senator will disavow the Abolitionists of all shades and colors I should be truly happy to hear him.

SENATOR CHASE. I do disavow most emphatically all association with any class of persons who desire the dissolution of this Union. I say now, as I said at the last session: "We of the West look upon the Union as upon the arch of heaven, without a thought that it can ever fall." But if the Senator wishes to include in his reproaches all those who, within the limits of constitutional obligation, seek to rescue this government from all connection with slavery, I claim no exception.

Senator Davis declared that Massachusetts by her act in the Shadrach affair had virtually put herself out of the Union, and that he, for one, would not coerce her back.

Let her go in peace and good will; go with all the kind and proud remembrances which cluster about her early history; go, if she will not maintain her obligations to the Constitution as becomes a sovereign State and an equal member of the Union. I deny her power to nullify the law and remain in the Union, but I concede her the right to retire from it—to take the "extreme medicine" of secession.

This Union is held together by historical associations and national pride, by mutual attachments, common interests, and social links. It can be rent in twain only by something which loosens these many, strong, and ever strengthening rivets and permits the use of a lever as powerful as that which has recently been introduced.

When it depends upon politicians to manufacture bonds to hold the Union together, it is gone—worthless as a rope of sand.

Union vs. Secession in the South. The Southern Rights Association of South Carolina held a convention in Charleston in May, 1851, and passed resolutions declaring that the State would not submit to injustice from the Federal government, but would "relieve herself therefrom whether with or without the coöperation of the other Southern States." It issued a call for a "Secession Congress" of the slave States, which was ratified by the State legislature. The other States did not respond, and one of them, Virginia, strongly warned South Carolina to desist from her course. A reaction took place in the State, and in October the secession delegates to the Congress were completely defeated. Senator Foote won the gubernatorial election of Mississippi over Senator Davis on the same issue.

During May and June, 1851, Webster, now Secretary of State, made a speaking tour through New York and Virginia, defending in brilliant oratory the Fugitive Act, yet unintentionally giving evidence of its ineffectiveness by denouncing its defiance by his own and other Northern States. The reply of Massachusetts to Webster was the election to the Senate of Charles Sumner, the most eloquent and extreme of anti-slavery statesmen, by a coalition of Democratic and Free Soil votes.

Sketch of Sumner. Sumner was a graduate of Harvard and the law school there. After admission to the bar he traveled in Europe for a few years. Returning in 1840, he entered actively into politics as a Whig. In 1848 he became a Free-Soiler, and was defeated for

Congress on the ticket of this party. His subsequent history, within the scope of this work, will transpire in the following pages.

Longfellow thus described Sumner in 1838:

"He stands six feet two in his stockings—a *colossus* holding his burning heart in his hand to light up the sea of life."

Arnold Burges Johnson, in his reminiscences of Sumner, in the *Cosmopolitan*, vol. iii., page 406, adds to this description:

"He was so well built that his height was only noticeable when he was near a person of ordinary size. But there was a manner about him, a free swing of the arm, a stride, a pose of his shaggy head, a sway of his broad shoulders, that gave to those who knew him best the idea that he was of heroic size. Then, too, there was something in the intent look of his deep-set eye, his corrugated brow, the frown born of intense thought . . . which gave the idea of physical greatness, but . . . his frequent smile, causing his face to beam like a dark lantern suddenly lighted, effected a wonderful transformation in his whole appearance, and set up a peculiar sympathy between him and its recipient."

Says Thomas Wentworth Higginson in his *Contemporaries* (1899):

"There is an Arabian proverb that no man is called of God till the age of forty; and Sumner was just that age when he entered the Senate. He had a grand, imposing presence, strong health, and athletic habits. He was one of the few persons who have ever swum across the Niagara river just below the Falls. Niagara first; slavery afterward. . . . His whole physique marked him as a leader and ruler among men. . . . When I first visited the British Parliament I looked in vain among Lords and Commons for the bodily peer of Charles Sumner."

Says Edwin P. Whipple, the essayist, in his *Recollections of Eminent Men* (1886):

"It was the misfortune of Sumner that, more than any public man of his time, he was subjected to the extremes of adulation and obloquy. His real character can hardly be discerned amid the tumult of puffs and scoffs, of exultations and execrations, which the mere mention of his name excited during his public career. . . . The more people swore at him the more delighted he was, and it is a pity that he did not have the same sense of humor in estimating the hyperboles of panegyric addressed to him by his admirers."

Hugh McCulloch; in his *Men and Measures of Half a Century* (1888), writes:

"Mr. Sumner was interesting by both his merits and his faults. He was a ripe scholar, an elegant and instructive writer. As an orator he had few if any superiors. His style was ornate, his delivery impressive. His speeches in the Senate were carefully prepared, and were worthy of the close attention they received from most of the Senators, although they were better fitted for the platform than the halls of legislation. . . . He was . . . a man of unsullied and unassailable integrity. . . . On the other hand his prejudices were hastily formed and violent. His self-esteem was limitless. . . . His manner to those who differed with him was arrogant and offensive. . . . His friendship was confined to the very few whom he acknowledged to be his equals, or to the many who looked up to him as a superior. His sympathies were for races—too lofty to descend to persons. For the freedom of the slaves . . . and their claims to all the privileges of freedom after emancipation, he was an able and eloquent worker and defender, but to the appeals of needy colored people to his charity, or even his sympathy, he was seemingly indifferent."

Senator George F. Hoar, in an article on Sumner in the *Forum* (1894), vol. xvi., p. 553, writes:

"If we judge him by the soundness of his principles, by the wisdom of his measures, by his power to command the support of the people, by the great public results he accomplished, there is no statesman of his time to be named in the same breath with him save Abraham Lincoln."

Of Sumner as a debater, Senator George S. Boutwell says, in his "Reminiscences of Charles Sumner," *McClure's Magazine* (1900), vol. xiv., p. 362:

The field of his success is to be found in the argumentative power that he used for the overthrow of slavery. His influence in the Senate, however, was measured by his influence in the country, to whom his speeches, especially in the period of national controversy, were addressed. He relied upon authorities and precedents. In purely parliamentary contests he was not a match for such masters as Fessenden and Conkling who in learning were his inferiors.

Francis H. Underwood says in his *Handbook of English Literature: American Authors* (1872):

"Sumner leaves no point untouched, no matter how trite. There are no gaps in his sentences, and no ellipses in his thought. He leaves nothing for the imagination. Proposition is riveted to proposition until the whole statement is like a piece of plate armor. . . . The elevation of thought is a moral elevation; there is no compromise with wrong, no paltering with worldly policy. Much of the effect of his speeches is due to this pervading moral element. He is not greatly imaginative, and his ample utterances, unlike the copious and glowing diction of Burke, appear to be the results of painstaking industry."

Of Sumner's oratory, Eugene Lawrence writes, in his *Primer of American Literature* (1880):

"Trained under Everett and Webster, he approached their peculiar grace, but he never equaled them. His voice, although fine, sonorous, deep, wanted Everett's sweetness; his action was less graceful; he had little of Webster's mental clearness and strength. Yet, animated by the great cause in which he was engaged, filled with the ardor of truth, Sumner wielded an instrument of offense sharper and more powerful than Webster or Everett had ever dared to use."

On August 26 Sumner established his reputation as the leading anti-slavery orator by a long and comprehensive speech in the Senate on "Freedom National and Slavery Sectional." It was replied to by George E. Badger [N.C.].¹ As the argument of the debate is abstract, and therefore only incidentally connected with the Fugitive Act, it is here omitted.²

In his annual message of December 2, 1851, President Fillmore referred to the Fugitive Act, saying that opposition to it was dwindling, and directed, not against the Act in particular, but against the Constitution.

Nullification is now aimed, not so much against particular laws as being inconsistent with the Constitution, as against that instrument itself; and it is not to be disguised that a spirit has been actively at work to rend asunder this Union.

During 1851-52 Harriet Beecher Stowe published her anti-slavery novel, *Uncle Tom's Cabin*, which greatly

¹ Badger had been a judge of the Superior Court of his State, and Secretary of the Navy under Harrison. He was Senator from 1846 to 1855. He opposed the secession of his State in 1861.

² The reader is referred to it in the *Congressional Record*, and to Sumner's speech in his collected works.

aroused the North against slavery in general and the Fugitive Act in particular.

During 1852 the Whig party lost by death its great leaders, Clay and Webster; and the overwhelming defeat of its candidate for President, General Winfield Scott, by Franklin Pierce practically ended it as a national party.

So great was the curiosity to hear what position the new and comparatively unknown President would take on the slavery question, which the platform of his party, as well as that of the Whigs, had assumed to be settled by the Clay compromises, that a greater crowd than ever before assembled in Washington flocked to the Capitol on March 4, 1853, to hear his inaugural address. He pledged himself to carry the compromise measures "unhesitatingly" into effect, and "fervently hoped" that the slavery question was at rest.

The Burns Affair. However, resistance to the Fugitive Act became more determined than ever. On May 27, 1854, a negro workman, Anthony Burns, was arrested as a fugitive slave in Boston, and ordered to be deported to his master's home in the South. Under leadership of Wendell Phillips and Theodore Parker a protesting mass-meeting was held in Faneuil Hall. While it was in session a party led by Thomas Wentworth Higginson unsuccessfully attempted to rescue Burns. A defending deputy was killed and Higginson was wounded. The prisoner was marched with an armed escort through streets crowded with excited people, and by houses draped with crape, to be deported on a revenue cutter. At the wharf a riot was imminent, when the Reverend Daniel Foster (afterwards killed in the Civil War) exclaimed, "Let us pray!" and calmed the crowd, causing it to stand with heads uncovered

while Burns was hurried on board amid the clergyman's petition to Heaven in his behalf. After the war Burns studied at Oberlin College, and became a Baptist minister to folk of his color in Canada. The pacific attitude of Boston as shown by the obedience to Foster's appeal exemplified that of the North in general. The law was to be obeyed under protest, and constitutional means were to be taken to repeal it.

Sketch of Phillips. Educated at Harvard, and established in the law, Phillips had outraged his aristocratic family by abandoning his career and entering into the Abolition movement. He said that he could no longer abide by his oath as a lawyer to support the United States Constitution, since this recognized and protected slavery. He toured the country lecturing eloquently against the "accursed institution." He was also an advocate of woman suffrage, temperance, the rights of labor, and other radical causes. After the Civil War he succeeded Garrison as President of the Anti-Slavery Society, and actively promoted the civil rights of the freedmen. In 1870, when these had largely been secured, he resigned his office and he converted the organ of the Society, the *Anti-Slavery Standard*, into a general magazine. His *Speeches, Letters, and Lectures* were published in 1863.

James Russell Lowell wrote of him in 1843:

"he went
And humbly joined him to the weaker part,
Fanatic named, and fool, yet well content
So he could be the nearer to God's heart,
And feel its solemn pulses sending blood
Through all the widespread veins of endless good."

In a poem, "Wendell Phillips," in the *Atlantic Monthly* (1890), vol. lxxvi., p. 35, Wendell Phillips Stafford said:

"Last from the fight
So moves the lion, with unhaunting stride,
Dragging the slant spear, broken in his side,
And gains the height!"

Says Carlos Martyn in "Wendell Phillips as an Orator," in the *Forum* (1889), vol. viii., p. 305:

In his outward man, Wendell Phillips was cast in classic mold. . . . Above the middle height, his form . . . closely resembled, by actual measurements, the Apollo Belvidere. Of nervous, sanguine temperament, his complexion was ruddy, and gave him the appearance of one whose soul looked through and glorified the body; hence that singular radiance which was often startling. . . . His profile was fine-cut as a cameo. His face was intellectual and serene; it wore a look of resolute goodness. His pose was easy and natural, every change of attitude being a new revelation of manly grace. No nobler physique ever confronted an audience."

Of Phillips's first speech in public, A. Bronson Alcott records his impression in *Wendell Phillips the Radical* (1867). It was delivered at a meeting held in Faneuil Hall, Boston, in 1837 on the occasion of the murder of the Abolitionist Elijah Lovejoy by an Illinois mob.

"The Attorney-General cast scorn and ridicule on the martyr. . . . A young man . . . sprang to his feet, held fast the chairman's eye till he reached the platform, and, amid mingled applause and hisses, poured forth such a flood of indignant invective, such royal reason, that his victim never recovered from the stroke. . . . And from that

time to the present his name and fame have made way throughout the country; the rumor of him has crossed the seas, and he stands now the first of American orators."

Moncure D. Conway, in "Wendell Phillips" in the *Fortnightly Review* (1871), vol. xiv., p. 71, thus writes of the spell of his eloquence:

"His foes have never dared listen to him. Mobs sent to break up his meetings have returned to their employers saying, 'Never man spake like this man.' . . . 'Let no one despise the negro any more,' said a man of letters who heard him; 'he gave us Wendell Phillips.'"

Thomas Wentworth Higginson, in his "Obituary Notice of Wendell Phillips" (1884), wrote:

"His oratory was essentially conversational. Perhaps no orator ever spoke with so little apparent effort, or began so entirely on the plane of his average hearers. The poise of his manly figure, the thrilling modulation of his perfectly trained voice, the dignity of his gesture, the keen penetration of his eye, all aided to keep his hearers in hand. Then, as the argument went on, the voice grew deeper, the action animated, and the sentences came in a long sonorous swell, still easy and graceful, but powerful as the soft stretching of a tiger's paw."

Said the negro orator, Frederick Douglass, in his "Address on Wendell Phillips" (1884):

"Eloquent as he was as a lecturer, he was far more effective as a debater. Debate was to him the flint and steel which brought out all his fire. His memory was wonderful. He would listen to an elaborate speech for hours, and, without a single note of it, reply to every part."

George W. Smalley, in *Warner's Library of the World's Best Literature* (1897), vol. xx., p. 11, 409, says:

"Phillips formed his plan as Napoleon did, on the field and in the presence of an enemy, for he spoke almost always to a hostile audience. On his mastery over his hearers depended sometimes his own life, sometimes the anti-slavery cause. To have silenced that silver trumpet would have been to wreck the cause."

Said Henry Ward Beecher in his pulpit after Phillips's death in 1884:

"When the pygmies are all dead, the noble countenance of Wendell Phillips will still look forth, radiant as a rising sun—a sun that will never set."

Sketch of Parker. Parker was a native of Lexington, Mass., who studied at the Cambridge Divinity School and was called to a Unitarian Church at Roxbury. In 1846 he became president of an independent rationalistic society at Boston. He died in Florence, Italy, in 1860 at the age of fifty.

Said Moncure D. Conway, in an article on Parker in the *Fortnightly Review* (1867), vol. viii., p. 148:

"This man was an organized conscience. He quickened the perceptions of the American people to detect the subtlest distinctions between right and wrong. When the post-mortem examination of slavery takes place, the arrow of Theodore Parker will be found deepest in its heart. He not only pleaded the cause of the hunted fugitive slaves, but protected them in his house, and fed them at his table. Two of these, a man and a maid betrothed, were concealed for some days in his study, while Parker sat outside the door with a pistol by his side, writing his next Sunday's discourse.

Then he married the two, and, giving the man a Bible and a dagger, exhorting him to die rather than let himself or his wife return to slavery, he got them off on an English ship."

Parker, though a "Transcendentalist," dealing with philosophical themes, had an unusually simple vocabulary: John White Chadwick, in *Warner's Library of the World's Best Literature*, vol. xix., p. 11,076, calculates that ninety-one of his words out of a hundred are Saxon, to eighty-five of Webster's, and seventy-four of Sumner's.

CHAPTER X

REPEAL OF THE MISSOURI COMPROMISE

The Nebraska Territorial Bill—Senator Archibald Dixon [Ky.] Proposes Repeal of the Missouri Compromise—Sketch of Dixon—Stephen A. Douglas [Ill.] Puts this Principle in the Bill—Debate: in Favor, Senator Douglas, George E. Badger [N. C.], John Pettit [Ind.], Andrew P. Butler [S. C.]; Opposed, Salmon P. Chase [O.], Charles Sumner [Mass.], William H. Seward [N. Y.], Benjamin F. Wade [O.]—Sketches of Pettit, Butler, Seward—Bill is Enacted—Douglas Defends his Action—He is Arraigned by Abraham Lincoln [Ill.].

WEST of Missouri and Iowa there stretched to the Rocky Mountains a great plain called from its chief river the “Platte country.” Across it ran the Oregon and Santa Fé trails, but no emigrants with hearts fixed on the well-watered Pacific coast were tempted to settle the semi-arid central and western portions of the plain, and the eastern part, as late as 1850, was largely occupied by Indian reservations. By the Missouri Compromise this territory was dedicated to freedom; nevertheless the pact had been broken in part in 1836, when a strip of land adjoining Missouri was quietly annexed by that slave State, and organized into counties.

It was attempted in 1853 to cure this irregularity. On February 2, a bill organizing the entire region under the name of the Territory of Nebraska was reported in the House. While the bill did not mention slavery,

the restriction against this was implied, and therefore the Southern Representatives opposed it. It was, however, passed on February 10 by a vote of 98 to 43. It then went to the Senate, where it was tabled on March 2 by a vote of 23 to 17, the negative votes being from the South. On January 4, 1854, it was again reported, with certain amendments made by the Committee on Territories, of which Stephen A. Douglas [Ill.] was chairman. The report questioned the validity of the restriction of slavery in the Missouri Compromise, since, according to the opinion of the Committee, the Clay compromises had superseded this with the principle of Popular Sovereignty. It was evidently contemplated to organize the Territory without mention of slavery, as a concession to the South.

On January 16, Archibald Dixon [Ky.]¹ moved that the Missouri Compromise should be so construed that the restriction of slavery should not apply to any Territory to be organized, but that settlers should be free to bring their slaves within its borders. This bold proposition was at first received as a Whig device to divide and disorganize the Democratic party, and to defeat in particular Senator Douglas's Presidential aspirations. But Douglas was not daunted, and daringly resolved to achieve the same result under the specious disguise of Popular Sovereignty. Accordingly he had the Committee entirely reconstruct the measure, so that it proposed to organize two Territories out of the region, Kansas west of Missouri, and Nebraska west of Iowa, with slavery to be accepted or rejected by vote of the inhabitants or their representatives; with reference of all disputes over the title of slaves to

¹ Dixon was a lawyer. His term in the Senate extended from 1852 to 1855.

the Supreme Court; and with the specific annulment of the Missouri Compromise.

This bill was reported on January 23, and was hotly debated from January 30 to May 20. The leading speakers in its favor were Senators Douglas, George E. Badger [N. C.], John Pettit [Ind.], and Andrew P. Butler [S. C.]. Those opposed were Salmon P. Chase [O.], Charles Sumner [Mass.], William H. Seward [N. Y.], and Benjamin F. Wade [O.].

Sketch of Pettit. Pettit was a lawyer, who had been a Representative from 1843 to 1849, and a Senator from 1853. He served until 1855. In 1870 he became a judge of the Superior Court of Indiana.

Sketch of Butler. Andrew Pickens Butler was the son of a gallant general in the Revolution and War of 1812, William Butler, who was also a member of Congress. The son was graduated at South Carolina College, and, becoming a lawyer and a State legislator, acquired a high reputation for ability and eloquence. He was an ardent State-rights man, raising a regiment of cavalry to resist the Federal government when Nullification was proposed. He held high judicial positions in his State before he was appointed in 1846 to fill a vacancy in the United States Senate. Here he served until his death in 1857, acting as chairman of the Judiciary Committee. He was able in argument, with strong convictions tempered by good nature and relieved by ready wit.

Sketch of Seward. William Henry Seward had entered the Senate full of honors, and with a reputation as the shrewdest politician of his party. He was graduated at Union College in 1820; admitted to the bar in 1822, settling in Auburn in 1823. He was elected in 1830 on the anti-Masonic ticket to the State Senate,

where he served until 1834. After an unsuccessful candidacy as a Whig for Governor in 1834, he was elected to that office in 1838, serving until 1843. He was first a Whig and afterward a Republican Senator of the United States from 1849 until 1861, when, as Lincoln's chief contestant for the Presidential nomination, he was appointed Secretary of State. His notable career thenceforth needs not be given here.

George W. Bungay, in his *Off-Hand Takings* (1854), gives the following eulogistic sketch of Seward at the time of this debate:

"Seward is a great man among great men. He is not so volcanic as Benton, not so logical as Webster, not so eloquent as Clay, not so brilliant as Foote, not so jovial as Hale, but he can write a better letter than any of them. His classic style, his earnest air, his truthful manner, his uncommon sense, his perfect self-control, his thorough knowledge of the leading questions of the day, compel the attention and admiration of the hearer."

Later opinions of Seward, especially after he became as Secretary of State the chief adviser of President Johnson in his fight with the Radicals of Congress, are not so favorable. Bayard Taylor in 1865 wrote a sonnet called "A Statesman" in which Seward is excoriated as:

"Mean to the friend, caressing to the foe;
Plotting the mischief which he feigns to fear:
Chief Eunuch, were but ours the Sultan's court!"

Jeremiah S. Black, Buchanan's Attorney-General at the time when Seward was the chief opponent of that Administration, retained a poor opinion of the Republican statesman's legal ability when, in 1874, two years

after Seward's death, he wrote about him to Charles Francis Adams as follows:

"He knew less of law and cared less about it than any other man who has held high office in this country. If he had not abandoned the law he might have been a sharp attorney, but he could never have arisen to the upper walks of the profession. This was because of inherent defects in his moral nature. He did not *believe* in legal justice, and to assist in the honest administration of it was against the grain of all his inclinations. This man, to whom you would assign a place in history above all other American statesmen, took a childish delight in the perverted use of his power, and displayed it as ostentatiously as one of those half-witted boys who were sometimes raised to the purple in the evil days of the Roman Empire."

A juster estimate than any of the foregoing extreme ones is that of Henry Cabot Lodge, in an article upon Seward in the *Atlantic Monthly* (1884), vol. liii., p. 699:

"Very few men have made themselves count for more than Seward in proportion to their ability. This arose from his wonderful capacity for dealing with his fellow-men, from his robust common-sense, and from his cautious firmness."

Seward's ability as a writer was early recognized. Philip Hone, in his Diary (1842), wrote:

"There can be no doubt of Governor Seward's talents, especially as a writer of pure English. His style is perspicuous and nervous, free from the tawdry and unmeaning embellishments of our modern public documents, and equally fitted for the good taste of the scholar and the comprehension of the plain man of sense."

He had a poetic vein in his writing over which President Lincoln was wont goodnaturedly to rally him, but which he greatly admired. Thus Lincoln accepted, with a very few emendations of his own (which, however, gave a classic chastity to the passage), Seward's draft of the peroration of the President's First Inaugural—a legitimate borrowing, since Seward had taken the idea of Lincoln's "House Divided" speech, and recoined it into clearer, more definitive expression in his own "Irrepressible Conflict" speech where it passed current as original.¹ Perhaps the supreme gift of Seward was this power of condensing an entire argument into a telling phrase. Another illustration of this ability was his coinage in 1850 of the term "higher law" to express the principle of human liberty to which the anti-slavery men gave their supreme allegiance, transcending that to the Constitution.

Debate on the Kansas-Nebraska Bill. Senator Douglas read an article from the *National Era* which was signed by Senator Chase, Representative Giddings, and other anti-slavery statesmen. It arraigned the bill as:

"A gross violation of a sacred pledge; . . . part and parcel of an atrocious plot to exclude from a vast, unoccupied region . . . free laborers . . . and convert it into a dreary despotism inhabited by masters and slaves."

This manifesto, said Douglas with demagogic art, was signed on the holy Sabbath by deceiving politicians to advance their own ambitious purposes in the name of our holy religion.

¹ For this famous speech, and a reply made to it in the Senate by Alfred Iverson [Ga.], see *Great Debates in American History*, vol. v., chapter v.

It was intended particularly to influence the Ohio legislature to pass pending resolutions against the bill. I shall prove its statements false by the legislation of the country.

Here Douglas reviewed the history of the Missouri Compromise and the Wilmot Proviso, and claimed that the principle of the former had been abandoned in the adoption of the latter, as was proved by the necessity of adopting the new Compromises of 1850.

Every man who is now assailing the principle of the bill under consideration was opposed to the Missouri Compromise in 1848. It is with bad grace that the men who then proved false should now charge upon me and others who were ever faithful the responsibilities and consequences of their own treachery.

The leading feature of the Compromises of 1850 was Popular Sovereignty subject only to the provisions of the Constitution. Was not this adoption of a great fundamental principle of freedom, applicable to all Territories, North and South, an abandonment of the old, artificial one, the geographical line?

The Chase-Giddings manifesto says:

"It is solemnly declared in the very compromise acts [of 1850] 'that nothing herein contained shall be construed to impair or qualify' the prohibition of slavery north of $36^{\circ} 30'$; and yet in the face of this declaration that sacred prohibition is said to be overthrown. Can presumption further go?"

Presumption could not go further than in this declaration. The signers suppress material facts which would have disproved their statement. The first of these is that act in the compromises ceding all that part of Texas north of $36^{\circ} 30'$ to the United States; the second is the act ceding land embracing three degrees of longitude in the west of Texas;

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and the third is the organization out of these cessions, including land in which slavery was prohibited by the Missouri Compromise, of New Mexico as a Territory, with the guaranty that, when it shall be admitted into the Union, the question of slavery shall be decided by the inhabitants.

I copied the precise words of the New Mexico bill into the Kansas-Nebraska one.

Senator Wade here indicated the position of the opponents of the measure by asking, "Why did you do it over again?" Senator Douglas replied, "I will come to that point presently," and continued with his criticism of the manifesto.

The confederates who met in caucus on the Sabbath day declare that the Territorial bills of the Compromises of 1850 applied only to the Mexican acquisitions, and must stand or fall by their own merits. Was then our object in 1850 simply to provide against a temporary evil—to heal over an old sore, and leave it break out again? Was it our object to apply a miserable expedient to that territory alone, and leave us at sea without a compass when new territory was acquired and demanded organization? Was it for this that the venerable Clay sacrificed his last energies on the altar of his country, that Webster and all the patriots of that day struggled so long and strenuously? Was this the meaning of the platforms of both parties accepting the Compromises? If so, then they perpetrated an atrocious fraud on the American people.

No, the Compromises were intended to be final, and no other construction than that of the present bill can give this finality. By any other construction you reopen the slavery issue every time you organize a new Territory.

Why should any man, North or South, object to Popular Sovereignty? If you will review the history of the slavery question in the United States you will see that all the great results in behalf of free institutions have been accomplished

by the operation of this principle, and by it alone. The will of the people has prevailed against opposing Federal acts. Illinois as a Territory, in despite of the Ordinance of 1787, established and protected slavery. It is a curious fact that, so long as Congress said Illinois should not have slavery, she actually had it, and on the day Congress withdrew its prohibition, the people of Illinois, of their own free will, provided for a system of emancipation. Slavery now exists in but one Territory,—this very Nebraska, and does so in defiance of the Missouri Compromise. Slaves are the only servants there. An Abolition missionary and his wife in that country desired a servant, and were forced to go to Missouri, and pay \$1000. for a negro and bring him back as "help." [Laughter.] Abolitionists, it would seem, can buy a negro for their own use, but do not allow any one else to do the same thing. [Renewed laughter.]

But slavery will not be able to exist there under the operation of natural causes. When settlers come in, and free labor becomes plenty, slavery will vanish, as every one anticipates.

I never have liked legislation by geographic line, violating as it does the laws of nature—climate and soil—and of God, yet out of respect for past pledges, I adhered faithfully by it so long as it was in force. Indeed, it was I who first proposed to extend the line to the Pacific ocean. Now when the great principle of self-government has been substituted for it, I choose to cling to that principle, and abide by both the spirit and letter of the last compromise.

Senator Chase utilized the opportunity afforded by Senator Douglas's eager acceptance of a printer's error in the date of the signing of the Chase-Giddings manifesto to discredit his sincerity and pertinently to defend the character of those whom he had aspersed by a counter personal attack.

With a generosity peculiarly his own the Senator has availed himself of this error, and piously holds up to public

reprobation the "Abolition caucus" for violating the sacredness of the Sabbath, that day for which he cherishes, doubtless, a peculiar reverence.*

The Senator exaggerates his own importance in supposing that we had him specially in view. As for myself I tell him he was not in my thoughts. Sir, I know the gigantic stature of the Senator²—the weight and importance he possesses in the country and the powerful party which surrounds him; I know that I am in a minority, but I dare do that which I should like the Senator also to do—to adhere to principle, even though that adherence must carry me into a minority.

Sir, our offense is that we deny the nationality of slavery. We have never sought to interfere with slavery in the States where it exists; all that we have insisted upon is that the Territories shall be preserved from it, and that the legislation of the government wherever its jurisdiction exists shall be on the side of liberty. We did not assail the Senator, but, taking advantage of his powerful position, he has assailed us. Ay, sir, that shows courage, that shows chivalry and lofty manhood, to assail the few and unsupported.

The manifesto spoke only of the Senator's bill. And now and here I reaffirm every word of its appeal. I thank the Senator for bringing it before the country, for it will now reach thousands who otherwise would not have read it.

In despite of the prophecy of the Senator that Kansas-Nebraska will, under the bill, become free soil, I reaffirm that the purpose of his measure is to convert the region into slave territory. Who does not know that upon the western border of Missouri are many slaveholders eager to enter the new Territory with their slaves? Who does not know that the effect of this introduction will be the exclusion of free laborers?

* Douglas had the reputation of being a man of loose habits.

* Douglas was called the "Little Giant."

On February 3, Senator Chase moved to strike out the declaration in the bill that the Missouri Compromise had been superseded by the Compromises of 1850.

It is slavery that renews the strife, slavery with its insatiate lust for more slave territory and future States; and to this end it demands that a time-honored and sacred compact shall be rescinded—a compact which has been regarded, North and South, as inviolable, and the constitutionality of which few have doubted, and by which all have consented to abide.

The Senator from Illinois attempts to show that the original policy of the country was indifferentism between slavery and freedom. Sir, if anything is susceptible of absolute historical demonstration it is that the founders of this Republic never contemplated any extension of slavery.

Here the Senator cited the familiar anti-slavery opinions of Jefferson and his part in the prohibition of slavery in the Northwest Territory.

Slavery was already in the Territory under the French colonial law, and also, if the claim of Virginia was well founded, under the laws of that State. The Ordinance of 1787 therefore, as the first application of the original policy of the government, converted slave territory into free.

Chase also showed that the idea of property in man was deliberately excluded from the Constitution by Congress by its changing the proposed Amendment that no *freeman* shall be deprived of life, liberty, or property without due process of law, to read, no *person* shall be so deprived.

The Constitution therefore recognizes all men as persons only. Congress under it has no more power to make a slave

than to make a king; to establish slavery than to set up the Inquisition. It cannot interfere with slavery in the States, except, perhaps, in the case of war or insurrection.¹

Here Chase cited, as a few instances of the general former Southern opinion on the subject, John Randolph's scornful rejection of all aid from the Federal government to slavery in Virginia, and the decision of Chancellor Wythe (overruled, however, in the Virginia Court of Appeals) that slavery was so against justice that the presumption of freedom must be allowed to every alleged slave suing for liberty, and the *onus* of proving the contrary must rest on the claimant of his ownership.

He stated that the Missouri Compromise departed from the original national policy in regard to slavery by recognizing it where it existed and prohibiting it where it did not.

But the idea that slavery could ever be introduced into free territory under the sanction of Congress had not, as yet, entered into any man's head.

He then reviewed the history of the Wilmot Proviso.

The North's position was that territory already free, lying south of the Compromise line, should remain free. Therefore the Northern States defeated Douglas's proposal to extend the line to the Pacific with the effect that slavery would be introduced into all territory south of the line.

The Senator then came to the Clay Compromises.

The acts of 1850 applied only to the Mexican acquisitions. They did not introduce any general principle of Territorial

¹ It was in this case that the Federal government abolished slavery during the Civil War.

organization. No man concerned in their passage, and least of all the Senator from Illinois, imagined that we were planting the germs of a new agitation. Indeed, one act contains an express stipulation which precludes the revival of the agitation in the form in which it is now thrust upon the country.

Senators, will you unite in a statement which you know to be contradicted by the history of the country? If you wish to break up the time-honored compact embodied in the Missouri Compromise, transferred into the annexation of Mexican territory, and preserved and affirmed by the Compromises of 1850, do it openly and boldly.

I cannot believe that the people have so far lost sight of the principles of the Revolution as to acquiesce in the violation of this compact. The Senator from Illinois appeals to them with the specious principle of Popular Sovereignty. What kind of Popular Sovereignty is that which allows one portion of the people to enslave another portion?

If the Missouri prohibition of slavery shall be repealed, thousands will say: "Away with all compromises; we will return to the old principles of the Constitution. We shall not cease our efforts until slavery shall be abolished wherever it can be reached by the constitutional action of the government."

On February 6, Senator Wade spoke against the bill. He attacked the argument of Douglas that the Compromises of 1850 in organizing Utah and New Mexico, by adding to these Territories strips of land covered by the Missouri Compromise, had inferentially repealed this compact by establishing a "new principle."

This was only a necessary readjustment of boundaries. Suppose your party line with a neighbor has become uncertain, and in running a new one you take in a little land

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that belonged to him, or leave out a little land belonging to yourself, does this establish a "new principle" superseding your neighbor's title to the remainder by your own?

Senator Wade denounced the bill as the result of a sudden and base conspiracy to betray the people of the free States.

The North knew nothing about it. Did you let it go before the people? Why, sir, in the presidential contest, triumphant as was the Democracy, had you staked the election of Mr. Pierce on the proposition, he would not have received one electoral vote in the North. The object of this bill is to extend the market for human beings. It is an exceedingly dangerous issue. A cloud, little bigger now than a man's hand, is gathering in the East and North and West, and soon the entire boreal heaven will be ablaze. You are about to bring slavery and freedom to grapple in a contest in which one or the other must die. I do not know that I ought to regret it, for such a conflict has been inevitable; but you are hastening it. I tell you that it will not be liberty which will die in this progressive nineteenth century. If, however, you succeed, and your act of perfidy is consummated, the Union will not survive ten years. ¶

Senator Badger pleaded for the extension of slave territory as an act of justice to the slave-owner, and of humanity to the slave.

Probably only a few Southerners will go to Kansas and Nebraska. Why should they not take a few domestic servants along with them? Why separate a Southern gentleman from his dear old "mammy"?

To this Senator Wade pertinently replied:

We have not the slightest objection to the Senator's migrating to Kansas and taking his "old mammy" along

with him. We only insist that he shall not be empowered to sell her after taking her there.

Senator Badger had called slavery a "patriarchal institution," and extolled the beauty of this simple and natural relation between master and servant. To this Senator Seward replied:

Sir, I quite admire the simplicity of the patriarchs. But they nevertheless had some peculiar institutions quite incongruous with modern republicanism, not to say Christianity; namely, a latitude of construction of the marriage contract, which has been carried by one class of so-called patriarchs into Utah.¹ Certainly no one would desire to extend that "peculiar institution" into Kansas-Nebraska.

On February 23, Senator Pettit delivered a speech in favor of the bill which is notable only for his blunt characterization of the preamble of the Declaration of Independence as "a self-evident lie." On the following day, Senator Sumner delivered a long and carefully prepared address against the bill called "The Landmark of Freedom," which he prefaced by an extempory reply to Senator Pettit's remark.

Sir, it is a palpable fact that men are not born equal in physical strength or mental capacities. But as all are equal in the sight of God, so are all equal in natural inborn rights. It is a vain sophism to adduce against this vital axiom of Liberty physical or mental inequalities, or the unhappy degradation to which, in violation of a common brotherhood, some men are doomed. To deny the Declaration of Independence is to rush on the bosses of the shield

¹For intensely interesting debates on the political relation of Mormon Polygamy to Slavery, although not vital to the present subject, see *Great Debates in American History*, vol. viii., chapter xi.

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of the Almighty, which, in all respects, the supporters of this measure seem to do.

He disproved the argument that slavery would not flourish, if introduced, in Kansas-Nebraska, by citing Missouri in the same latitude, where there were now 87,422 slaves, although there had been few in its Territorial condition.

The Missouri Compromise, he said, had become a part of our fundamental law, irrepealable by any common-legislation. He appealed to the Senators of the South by the memory of her great statesmen who had so regarded it, not to stain her honor by repealing it. He denied that the prohibition of slavery was, in any just sense, an infringement of local sovereignty.

Slavery, as an infraction of the immutable law of nature, cannot be considered a natural incident of sovereignty in a democracy founded, as is ours, on natural right. Slavery is not a national institution; by the decision of the Supreme Court and the common law it is a local municipal institution.

Slavery is not a domestic relation any more than is polygamy. A polygamist in a State may not enter the national territory with his harem.

In vain, sirs, you plead that this bill is proposed by a Northern Senator. It is one of the melancholy tokens of the political power of slavery that, like the magnetic mountain in Arabian story, under whose attraction iron bolts were drawn from distant vessels, it loosens those principles which render Northern character staunch and seaworthy by bringing under its spell "Northern men with Southern principles." Sir, no such man can speak for the North. [Prolonged applause in the galleries.]

Mr. President, pass this bill, and it will be in vain that you say the slavery question is settled. Sir, *nothing can be settled which is not right.*

Defeat the bill, and you will truly promote the harmony you desire. Banished from its usurped foothold under the national government, slavery will no longer enter, with distracting force, into national politics, making and unmaking Presidents. Then Liberty will have at last whereon to stand and move the world.

Senator Butler spoke in favor of the bill on the same day. His chief arguments were that the Missouri Compromise had proved, instead of a soothing salve, a thorn in the flesh of the South; that whatever benefits it proposed to the South had been nullified; and that it was unconstitutional.

He addressed himself to the subject of Liberty, extolled by the Massachusetts Senator.

Liberty! Sir, liberty is like fire, which may be used to warm and illuminate the temple in which it is kindled, or to be the means of its destruction. The vestal fire may be used by profane intruders to kindle the consuming torch and brand.

He charged Senators Chase and Wade with taking inconsistent positions. The one said that negro slaves would pollute the soil of the Territories, making it offensive to Northern settlers, yet the other held that negroes were the equals of white men, and to be so received by them.¹

History refutes the equality of the white man and negro. Who ever heard of an African statesman, general, poet?²

¹ This is a juggling of the terms "negro" and "slave," and an imputation to another of the speaker's own interpretation of "equality."

² As Wendell Phillips showed, in his eloquent eulogy of Toussaint L'Ouverture, the Liberator of Haiti, there was at least one negro who was a statesman and general. Frederick Douglass, son of a pure negress, had already made a reputation as an eloquent orator. Alexander Dumas, a quadroon, was writing his wonderful romances containing a grandiose strain which critics attribute to his African blood, and there were a few, though minor, negro poets already recorded in literary history.

Here the speaker departed from the issue by arraigning Northern reformers for their various and vagarious "isms," notably Woman Suffrage. He sarcastically commented on Senator Seward's doctrine of the "higher law" of obedience to conscience rather than to human statutes, first enunciated by him in a speech on the Omnibus Bill in March, 1850.

I must deny the claim of the Senator to be the author of that law. Sir, its first teacher was the serpent who whispered it to Eve in Eden, and lost Paradise to her and her posterity.

At the close of his speech Senator Butler praised Senator Douglas for his authorship of the bill, his tactful presentation of it to the Senate, and his energy in pressing it to a decision.

After changes made by Senator Douglas in the bill stating clearly, but in less objectionable form, the substitution of the principle of Popular Sovereignty for that of the Missouri Compromise, and specifically denying that the bill legislated slavery into a Territory or State, the measure was passed on March 3, 1854, by a vote of 37 to 14.

The debate in the House was long and violent. Many amendments were proposed to delay final action, and, in order to dispose of these, the leader in favor of the measure, Alexander H. Stephens [Ga.], on May 20, got the bill out of the Committee of the Whole by successfully moving that the enacting clause be stricken out, and then bringing before the House the question of agreeing to this action. The Senate bill was then passed by 113 votes to 100. Northern votes for the

Men like Booker T. Washington, the great educator of his race, and Paul Lawrence Dunbar, as true a poet as America has produced, arose later to disprove Senator Butler's claim.

measure were all Democratic. President Pierce approved the law on May 24, 1854.

Douglas had prophesied when he introduced the measure that he would be reviled and perhaps mobbed by his constituents for it, but declared that he would carry it through for the sake of the Union whatever might be the consequences to himself. His prediction was largely fulfilled. As he said, after passage of the bill he "traveled from Washington to Chicago by the light of his burning effigies," and when he reached the Illinois metropolis he found its press and public sentiment solidly arrayed against him. Nevertheless he had a meeting called at which he attempted to justify his action; however, he was hooted down by the assembly. He thereupon announced that he would speak in the State capitol at Springfield on October 5. He did so, and, at the close of the address, it was stated that Abraham Lincoln would reply to him, for this inveterate antagonist of Douglas was unable to keep his resolution not to reenter politics, so great was his indignation over the breach of faith in the repeal of the compact between North and South made in 1820 on slavery.

On the day appointed Lincoln spoke for three hours, delivering a scathing philippic against the Kansas-Nebraska bill. Douglas himself confessed that it surpassed in ability and severity the arraignments he had received in the Senate. Unfortunately the speech was not recorded. However, its argument has been preserved, undoubtedly in more finished form, in a speech which Lincoln delivered at Peoria two weeks later (October 16), and in the joint debate with Douglas in 1868.¹

¹ For the Peoria speech the reader is referred to any of the editions of the complete works of Lincoln.

CHAPTER XI

THE DRED SCOTT DECISION

The Contest for Kansas—Debate in the Senate on its Admission into the Union: in Favor of “Squatter Sovereignty,” Stephen A. Douglas [Ill.]; in Favor of Prohibition of Slavery, William H. Seward [N. Y.]—Speech of Senator Charles Sumner [Mass.] on “The Crime against Kansas”—Reply by Senator Douglas—Assault on Sumner by Representative Preston S. Brooks [S. C.]—Defense of Brooks by Senator Andrew P. Butler [S. C.]—Arraignment of Brooks by Representative Anson Burlingame [Mass.]—Presidential Campaign of 1856—Sketch of the Republican Candidate, John C. Frémont [Cal.]—Sketch of the Democratic Candidate, James Buchanan [Pa.]—Exultation of President Franklin Pierce over Democratic Victory—Comment by Senator John P. Hale [N. H.]—Inaugural Address of President Buchanan—The Dred Scott Decision—Opinions in Favor, by Chief Justice Roger B. Taney [Md.], *et al.*; in Opposition, by Associate Justices John McLean [O.], and Benjamin R. Curtis [Mass.]—Sketches of the Justices—Senator Douglas Accepts the Decision—Abraham Lincoln [Ill.] Replies to Douglas.

DURING the course of 1854 the “anti-Nebraska” men adopted by general consent the ancient and revered name of “Republican” as their party designation. To this the Democrats, who still formally retained the early name, strenuously objected, and endeavored to fix the term “Black Republican” upon the new party as a fit and distinguishing appellation. But the opprobrium they thought thus to cast upon the anti-slavery men redounded to the great unanimity and increase of the party by attracting to it the Abolitionists,

who were now growing in numbers, owing to the fact that every one was an ardent propagandist.

In the year of its formation the Republican party elected eleven Senators and a plurality of Representatives.

"Bleeding Kansas." On the passage of the Kansas-Nebraska act, organized bands of Missourians entered Kansas with their slaves, declaring that "no protection would be afforded Abolitionist settlers in the region." The Abolitionists thereupon organized "Emigrant Aid Societies" to promote the migration of anti-slavery settlers. The first of these was a New England company which established itself at Lawrence, Kansas, named after Amos A. Lawrence, treasurer of the company. They were menaced by the Missourians, but, showing their resolution to defend themselves, were not attacked.

The government of the Territory was organized in the autumn, with Andrew H. Reeder [Pa.], an Administration Democrat with Free-Soil predilections, appointed as Governor by President Pierce. John W. Whitfield, a pro-slavery man, was elected Delegate to Congress, largely by the votes of Missouri citizens, who, by the advice of Senator David R. Atchison [Mo.], crossed the border and participated in the election. About this time a party of pro-slavery settlers founded the town of Atchison. An early issue of the local paper, the *Squatter Sovereign*, defied the anti-slavery men to do their worst.

"They may spend their millions and billions; their representatives in Congress spout their heretical opinions until doomsday, and His Excellency appoint Abolitionist after Free-Soiler as our Governor, yet we will continue to lynch and hang, tar and feather and drown, every white-livered Abolitionist who dares to pollute our soil."

In March, 1855, an election was held for the Territorial legislature. Eight times as many votes were counted as there were legal voters, and only two Free-Soilers were elected. Governor Reeder refused to issue certificates of election in the most glaring cases of fraud, and was threatened with lynching by the pro-slavery press. A new election was held in these cases, and Free-Soilers were chosen. The legislature, however, seated the fraudulent contestants, and, adjourning, in despite of the Governor's veto, from the temporary capital at Pawnee Mission to Shawnee Mission on the Missouri border, it adopted the laws of Missouri, including those relating to slavery, as the laws of the new Territory. This act was passed over the Governor's veto. At the petition of the legislature, Reeder was removed by President Pierce, and Wilson Shannon, who had been Governor of Ohio, was appointed in his place. Shannon at once announced that the acts of the legislature were legal.

In the meantime outrages were committed by pro-slavery mobs: Free-Soil printing plants were destroyed, and a lawyer in Leavenworth who had protested against election frauds was tarred-and-feathered, ridden on a rail, and sold to a negro, who was compelled to purchase him.

The Free-Soil settlers held a convention which repudiated the legislature and its acts, and called another delegate convention and a constitutional convention. At the former ex-Governor Reeder was elected Congressional Delegate, and at the latter, which was held at Topeka, a free-State constitution was formed, under which it was asked Congress to admit Kansas into the Union.

Assassination of a free-State settler, William Dow, on

November 21, 1855, led to an armed conflict between the parties. On appeal from a pro-slavery sheriff, Governor Shannon called out the militia, and, in response, a pro-slavery army came from the border and encamped on the Wakarusa River near Lawrence. The "militia" killed a free-State man, Thomas W. Barbour.¹ Finally an armistice ended this "Wakarusa War."

On January 15, 1856, election was held under the Topeka constitution, and a free-State Governor, Charles Robinson, and a free-State legislature were chosen, subject to the approval of Congress. The constitution provided that no negro, free or slave, be permitted in the State.

On January 26, 1856, George G. Dunn [Ind.]² moved in the House of Representatives to restore the Missouri Compromise to settle the Kansas agitation. It was carried by one vote, but failed to pass the Senate.

Outrages by the Missourians, who were called "Border Ruffians" by the free-State men, continued. Robinson and General James H. Lane, the free-State leaders, telegraphed to President Pierce on January 21 and 22, that a great invasion was preparing from Missouri, and asking that he employ the troops at the Federal post in Leavenworth to oppose it. With this request the President did not at the time comply. Instead, he sent a special message to Congress on January 24, in which he charged the Abolitionists of the country with responsibility for all the troubles in the Territory.

Against this message Representative Galusha A. Grow [Pa.], on March 5, entered a spirited protest.

¹ See Whittier's poem, *The Burial of Barbour*.

² Dunn was a Representative from 1847 to 1849, and from 1855 to 1857.

It is the duty of the President to protect the settlers of Kansas against the invasion of their civil rights, and in not fulfilling it he is guilty of gross dereliction.

We insist that the flag of the Union shall float, as heretofore, the emblem of freedom, and that under its folds, everywhere, freedom of speech and of the press and the inalienable rights of men shall be protected.

Finally, on February 11, the President issued a proclamation in which he warned all citizens of States adjacent to Kansas against invasion of the Territory on pain of suppression by Federal troops, and, on the 15th, Jefferson Davis, Secretary of War, sent orders to the army officers at Leavenworth to place troops at the disposal of Governor Shannon. In despite of these actions, bands of pro-slavery men, led by Colonel Buford of Alabama, Senator Atchison, General Stringfellow, and others, armed with weapons from the Federal arsenal at Leavenworth, entered Lawrence, and destroyed the printing offices, the Free-State Hotel, and the residence of Mr. Robinson. A small body of free-State men, led by John Brown of Osawatomie, then arose, and, at the battle of Black Jack, captured, with their plunder, a pro-slavery party that had just sacked Palmyra, a free-State settlement. A pro-slavery party under Whitfield made discreet reprisal by burning Osawatomie in the absence of Brown.

The House of Representatives, by a vote of 101 to 93 had sent a committee to Kansas to inquire into the anarchy prevailing there. After an investigation of several weeks, it presented the following report:

- I. That every election had been fraudulently carried by organized invasions from Missouri; (2) that the legislature was therefore an illegal body; (3) that its powers had been

used for unlawful purposes; (4-6) that the choice of Delegate Whitfield and the election of contesting Delegate Reeder were illegal, though Reeder had received a majority of the resident vote; (7) that a fair election could not be held without a new census, a well-guarded election law, appointment of impartial judges, and the presence of Federal troops; and (8) that the Topeka constitution embodied the will of a majority of the settlers.

On March 14 to 19, a debate ensued in the House on the report,¹ in which the opponents declared that fraud and intimidation had occurred in other places than Kansas without a subsequent investigation by Congress. No action was taken at this time on the report, and Delegate Whitfield retained his seat in spite of strenuous efforts of the Republican plurality of Representatives to expel him.

Squatter Sovereignty. A bill inspired by Stephen A. Douglas [Ill.] was reported in the Senate on March 20, 1856, from the Committee on Territories authorizing the people of Kansas to frame a constitution preparatory to their admission as a State. William H. Seward [N. Y.], moved a substitute bill admitting the State under the Topeka constitution.

In the debate which ensued, Douglas twitted Seward with the fact that he was upholding a constitution which debarred his friends, the negroes, from the State.

Under the code of laws enacted by the Territorial legislature which the Senator and his party profess to consider so monstrous, a negro may go to Kansas and be protected in all his rights so long as he obeys the laws of the land. In order to get rid of those laws the Senator proposes to give effect to a constitutional provision which is designed to prevent the negro forever from entering the State!

¹ See *Great Debates in American History*, vol. iv., p. 325.

The Black Republican party was founded on the fundamental principle of perfect equality of rights and privileges between the negro and the white man—an equality secured by a law higher than the Constitution. In your platform you stand pledged (1) against the admission of any more slave States; (2) to repeal the Fugitive Act; (3) to abolish the slave trade between the States; (4) to prohibit slavery in the District of Columbia; (5) to restore the prohibition of slavery in Kansas and Nebraska; and (6) to acquire no more territory unless slavery shall first be prohibited.

There are rumors that you are about to strike your colors; that you propose to surrender each one of these issues, and to nominate for President a new man, who, not being committed to either side, will be enabled to cheat somebody by getting votes from both sides.

Let us have an open and fair fight! [Applause in the galleries.]

Neither bill was passed, and one on the same subject, introduced in the House, and passed there by a vote of 99 to 97, was rejected by the Senate.

Sumner's Philippic against Butler and Douglas. On May 19, 1856, Senator Charles Sumner [Mass.], in a carefully prepared speech on the Kansas bill, delivered the most notable philippic in the annals of American forensic oratory. He gave it the title, when published, of "The Crime against Kansas."¹

In the course of his speech he compared Senator Andrew P. Butler [S. C.] to Don Quixote, saying his Dulcinea was "the harlot Slavery," and Senator Stephen A. Douglas [Ill.], to Sancho Panza, whom he

¹ For the entire speech see the collected works of Sumner. For the attack in it on South Carolina and Senators Butler and Douglas, see *Great Debates in American History*, vol. iv., p. 336.

called the "Squire of Slavery," ever ready to do all her "humiliating offices."

In attacking Butler, he denounced the State which the Senator represented for its "shameful imbecility from slavery" in the days of the Revolution, and for its "more shameful assumptions for slavery since."

The Senator cannot have forgotten its wretched persistence in the slave trade as the very apple of its eye, and the condition of its participation in the Union. He cannot have forgotten its constitution, which is republican only in name, confirming power in the hands of a few, and founding the qualifications of its legislators on "a settled freehold estate and ten negroes."

In comparison to South Carolina, he spoke of Kansas, whose entrance into the Union Senator Butler had opposed as unfit.

Were the whole history of South Carolina blotted out civilization would lose less than it has already gained by the example of Kansas in its valiant struggle against oppression, and in education and the development of a new science of emigration. Already in this infant Territory there is more mature scholarship, far in proportion to its inhabitants, than in all South Carolina. Kansas, welcomed as a free State, will be a "ministering angel" to the Republic when South Carolina, in the cloak of darkness which she hugs, "lies howling."

Senator Butler was not present when this speech was delivered. Senator Douglas therefore made reply. He aptly compared the main portion of the speech of Sumner, containing as it did familiar arguments, to a patchwork quilt, which the young lady who made it regards complacently as a beautiful specimen of handi-

work, but which has not a new piece of material in it. He adverted to the plain expressions of the learned Senator as drawn from those portions of the classics "which all decent professors in respectable colleges cause to be suppressed."

It seems that his studies have all been in those haunts where ladies cannot go, and where gentlemen never read Latin. [Laughter.]

He seems to be whistling to keep his courage up by defiant assaults upon us all. Is it his object to provoke some of us to kick him as we would a dog in the street, that he may get sympathy upon the just chastisement?

Senator Douglas stated that it had been common rumor that Sumner was preparing such an attack.

It has been the subject of conversation for weeks that the Senator had his speech written, printed, committed to memory, practiced every night before the glass with a negro boy to hold the candle, and annoying the boarders in the adjoining rooms till they were forced to quit the house! [Laughter.]

Commenting on the alleged avowal of Sumner that he would never obey one clause of the Constitution, that on the return of fugitives, Douglas said:

He came here with a pledge to perjure himself as the condition of eligibility to his place. Has he a right to arraign us because we have felt it to be our duty to be faithful to that Constitution which he disavows—to that oath which he assumes and then repudiates?

He then addressed Sumner directly.

What you call [my servility to] the slave power is simply observance of the Constitution as the Fathers made it.

I am regarded as a combative man, yet I call the Senate to witness that I have always stood on the defensive. You on the opposite side set your hounds on me, and then complain when I cuff them over the head and send them back yelping.

To the remark of a Senator that Sumner had taken unfair advantage of the absence of Butler in delivering his attack, Douglas did not assent.

The speech was written and practiced, and the gestures were fixed, and, if that part had been stricken out, the Senator would not have known how to repeat the speech.
[Laughter.]

Senator Sumner replied to the charge that he had perjured himself. He read a passage from President Jackson's veto message on the United States Bank:

"Each public officer who takes an oath to support the Constitution, swears that he will support it *as he understands it*, and not as it is understood by others."

Turning toward Douglas he said:

The Senator has infused into his speech the venom which has been sweltering for months—ay, for years; and he has alleged facts that are entirely without foundation, in order that he may heap on me some personal obloquy. I brand them as false to his face. No person with the upright form of man can be allowed [here the speaker hesitated, and Senator Douglas cried out, "Say it!"]—without violation of all decency to switch out from his tongue the perpetual stench of offensive personality. The noisome, squat, and nameless animal to which I refer is not a proper model for an American Senator. Will the Senator from Illinois take notice?

SENATOR DOUGLAS. I will, and therefore shall not imitate you, sir.

SENATOR SUMNER. Again the Senator has switched his tongue, and again he fills the Senate with its offensive odor.

The Assault on Sumner. Two days after this, while Mr. Sumner was seated at his desk in the Senate Chamber engaged in writing, the Senate not being in session, Preston S. Brooks,¹ a Representative from South Carolina and a relative of Senator Butler, approached unobserved, and, abruptly addressing Sumner but without waiting for reply, struck him on the head with a stout cane. When Sumner rose to protect himself, the desk was overturned, and Brooks beat the half-blinded Senator to the floor with repeated blows. The few occupants of the Chamber rushed to Sumner's aid, and carried him, unconscious and covered with blood, into the anteroom, where his wounds were dressed, and whence he was taken to his room in the city. The Senator never entirely recovered from the assault—indeed, it is claimed that it hastened his death. It was not until December, 1859, that he resumed his seat in the Senate; he took little part in the debates until the middle of the session, when he delivered a notable speech on the "Barbarism of Slavery" which aroused, if possible, even greater animosity against him on the part of the South than he had brought upon himself by his speech on "The Crime against Kansas."

The Senate appointed a committee to investigate the affair, which reported on May 28, 1856, advising that punishment of Brooks be left to the House in which he was a Representative. This was agreed to

¹ Brooks was a lawyer who had entered Congress in 1853.

with only one dissenting vote, that of Robert Toombs [Ga.]. The House appointed a committee of three Northern and two Southern Representatives to investigate the assault. On June 2 the Northern Representatives presented a majority report recommending that Brooks be expelled from the House, and stating that two other Representatives, Henry A. Edmundston [Va.] and Lawrence M. Keitt [S. C.], who came upon the scene during the assault, had knowledge of Brooks's intention, yet had failed to warn the victim, and therefore should receive the disapprobation of the House. The Southerners on the committee made a minority report to the effect that there was no violation of any "written and recognized" privileges of the Senate, and therefore that the House of Representatives had no jurisdiction in the matter; and that there was no evidence that Edmundston and Keitt knew of the time and place at which the assault was to be made, and so should not be reprimanded.

Seeing the opposition that had developed in the House, the Southern Senators manifested a disposition to reconsider the action of the Senate taken on May 28. On June 12, Senator Butler claimed that Senator Sumner has provoked the assault by his aspersions on South Carolina, arousing Brooks, as a loyal son of that State, to the only effective expression of resentment open to him.

What was my friend to do? Sue the libeler? Indict him? If that was the mode in which he intended to take redress he had better never go to South Carolina again. Was he to issue a challenge? There was not a possibility of its acceptance. He would have made himself contemptible, and perhaps might have been committed to the penitentiary.

On June 21 Anson Burlingame [Mass.]¹ made reply to defenses in the House similar to that presented by Senator Butler.

I denounce the act in the name of the Constitution which it violated. I denounce it in the name of the sovereignty of Massachusetts which was stricken down by the blow. I denounce it in the name of humanity. I denounce it in the name of civilization which it outraged. I denounce it in the name of that fair play which bullies and prize-fighters respect. What! strike a man when he cannot respond to the blow? Call you that chivalry?

That popular sympathy in the South was with Brooks was indicated by many presents of canes which he received from that region, accompanied by exultant commendations of his act. The Southern press was almost unanimous in its approval of the assault.

On July 14 the resolution to expel Mr. Brooks came to vote in the House. The yeas were 121 and the nays 95, and, since a two-thirds vote is required for expulsion, the resolution was lost. On the following day, by a vote of 106 to 96, the House declared its "disapprobation" of Mr. Keitt, but refused to disapprove of Mr. Edmundston by a vote of 60 yeas to 136 nays.

Mr. Brooks, because of the majority vote for his expulsion, resigned his seat in a speech breathing Catilinian defiance.²

Shortly after his resignation Mr. Brooks selected from his detractors Mr. Burlingame, who had particu-

¹ Burlingame was a lawyer who had been successively a Free-Soiler, a Know-Nothing, and a Republican. He was appointed minister to China [1861-67] where he negotiated the famous treaty which bears his name.

² See *Great Debates in American History*, vol. iv., p. 362.

larly charged him with cowardice, and sent him a challenge to a duel, which he accepted. The place appointed was on the Canadian side of Niagara Falls, since almost all of the States had passed laws against dueling. Brooks finally declined to fight at the place designated on the ground that he would have to pass through a State (New York) which was inimical to him. Brooks was "vindicated" by his constituents immediately reelecting him to Congress. He died in the following year.

Presidential Campaign of 1856. In the Presidential campaign of 1856 the question of Popular Sovereignty in the Territories was the chief issue. The American [Know-Nothing] party declared for the principle, causing the secession of about fifty "anti-Nebraska" delegates.¹

The Democratic convention met at Cincinnati, O., on June 2. It being admitted that President Pierce had failed to settle the great question of the day, the Kansas troubles, satisfactorily to the people, James Buchanan [Pa.] was nominated for President. John C. Breckinridge [Ky.], an ardent pro-slavery man, was nominated for Vice-President. The platform declared for Popular Sovereignty and against interference by Congress with slavery in the District of Columbia.

The Republican convention was held at Philadelphia on June 17. John C. Frémont [Cal.] was nominated for President, and William L. Dayton [N. J.] for Vice-President. Dayton received 259 votes, to 110 cast for Abraham Lincoln (whose reply to Douglas on the repeal of the Missouri Compromise had brought him into national notice), and 180 scattering votes. The platform declared for:

¹ See Volume I., page 291.

1. The maintenance of the Constitution against all attempts to violate it for the purpose of establishing slavery in any Territory by positive legislation.
2. The prohibition in the Territories by Congress, acting under its constitutional right, of "those twin relics of barbarism—polygamy and slavery."

Sketch of Frémont. John Charles Frémont was born in Savannah, Ga., in 1813. His father was a Frenchman, who supported his family by teaching his native language. His mother was a Virginian. On the death of Mr. Frémont in 1818, his widow removed to Charleston, S. C. John was expelled from Charleston College for his frequent absences, though he stood high in mathematics. However, after becoming a teacher of this subject in the navy, he returned and took his degree at the college.

He then became an engineer in the United States topographical corps. In 1841 he secretly married Jessie, the sixteen-year-old daughter of Senator Benton. He was employed by the Government in exploring passes in the Rocky Mountains. It was his report of Utah as a desirable region for settlement that attracted the Mormons to that region. Enduring great hardships he and his expedition pushed on to California in 1844. For his services General Scott brevetted him first lieutenant and captain. In 1845-46 Frémont came into armed conflict with the Mexican authorities in California, and, aided by the American settlers, freed northern California from Mexican rule, being rewarded by Scott with appointment as lieutenant-colonel, and by the settlers with election as Governor of California, war with Mexico having been declared by the United States. He led the land forces that, in conjunction with the naval, under Commodores John D. Sloat and

Robert F. Stockton, conquered southern California. Meantime General Stephen W. Kearny had been sent out by the United States government to take command of California, superseding Commodore Stockton. For a time Kearny admitted the practical authority of Stockton, and therefore, when he asserted his command, Frémont continued to obey the Commodore as his superior officer. For this Kearny brought him to Washington, where he was court-martialed. President Polk remitted the penalty, but Frémont resigned his commission. In 1848 he set out on an expedition at his own expense to find a passage to California by the upper waters of the Rio Grande. After enduring frightful hardships he reached Sacramento in the spring of 1849. Thereafter he was known as "The Pathfinder." He settled in California, where he had bought a rich gold-bearing estate in 1847. He was elected to the United States Senate, taking his seat in 1850 on the day California was admitted to the Union. However he had drawn by lot the short term, which expired March 4, 1851. In his brief service he devised and partly won for his State a comprehensive system of legislation adapted to its peculiar conditions. The anti-slavery party in California, of which Frémont was the leader, was defeated in 1851, and he failed of return to the Senate. In 1852 he visited Europe, where he was greatly honored by courts and scientific societies for his explorations.

In 1853 he led another private expedition to complete the surveys of the preceding one, and met with similar hardships, his party living on horse-flesh for fifty days. In 1855 he took up residence in New York in order to prepare for publication the narrative of the expedition. He was regarded as the hero of the day. Frémont's

subsequent career, as a General in the Civil War, in which his premature proclamation of emancipation brought great trouble on President Lincoln; as a rival of Lincoln for the Presidency in 1864; and as governor of Arizona Territory, falls beyond the scope of this volume. He died in 1890.

Sketch of Buchanan. James Buchanan was born of Scots Presbyterian stock near Mercersburg, Pa., in 1791. He was graduated from Dickinson College in 1809, and began the practice of law at Lancaster. He served as a volunteer in the War of 1812. In 1814 he was elected to the legislature. He entered Congress in 1821, and, while at first holding what were to be known later as Whig opinions on internal improvements, etc., came in time, through study, to adopt Jeffersonian principles. In 1829 he was appointed chairman of the Judiciary Committee, in which capacity he introduced and carried through important reforms of the Federal judicial system. In 1831 he was appointed by President Jackson minister to Russia. In the following year he negotiated a commercial treaty with that country. He returned home in 1833, and in 1834 was elected to the Senate. Here he became one of the leading supporters of President Jackson in his "war on the United States Bank." In a debate on the "French spoliation claims," to secure the payment of which the President had recommended partial non-intercourse with France, Buchanan was the Administration leader in the Senate, opposed to Clay and Webster. He contended that "there is a point in the intercourse between nations at which diplomacy must end, and a nation must either consent to abandon her rights or assert them by force." His ablest effort, however, was his speech in favor of expunging the resolution of censure passed upon Presi-

dent Jackson for his removal of government deposits from the United States Bank. He upheld the right of petition while opposing the object of the anti-slavery memorials, emancipation in the District of Columbia. Nevertheless he supported prohibition from the mails of Abolitionist literature. He defended President Tyler against the attacks of Clay and other Whigs for his vetoes. He opposed the Webster-Ashburton Treaty. In 1845 he was appointed Secretary of State by President Polk, and became responsible for the acts of that administration in regard to the Oregon boundary, the annexation of Texas, and the Mexican War. He reasserted the Monroe Doctrine to defeat British designs in Central America, and to the same end encouraged union among the republics of the region. This design was frustrated by the ambiguous terms of the Clayton-Bulwer Treaty in Taylor's administration, and Buchanan was appointed by President Pierce to go as minister to Great Britain chiefly for the purpose of protecting the Central American states from British occupation.

In the meantime Buchanan, as a private citizen, had opposed the Wilmot Proviso, and supported the Clay Compromises and the Fugitive Slave Law.

When Lord Clarendon, in 1854, presented to Buchanan a *projet* for a treaty between Great Britain, France, and the United States making it piracy for neutrals to serve on privateers against one of the parties in war time, the weighty reasoning of the American minister against the principle caused the proposal to be abandoned. His success abroad made him exceedingly popular at home, and on his return in April, 1856, he was welcomed at New York with a great public reception, which launched his "boom" for the Democratic nomination for President. He was nominated, as we

have seen, and was elected, receiving 174 electoral votes to 114 cast for Frémont, and 8 (Maryland's) for Fillmore. Some of his acts as President have been recounted in Volume I., Chapter XII., and others will follow in these pages. He published a vindication of his policy in *Buchanan's Administration* (1866). His biography was published in 1883 by George Ticknor Curtis. He died in 1868.

Buchanan's character is indicated by the term he applied to himself in his annual message of 1859, "an old public functionary"—which was abbreviated by his opponents to "Old Pub. Func." No one has ever claimed that he was a man of genius, but it cannot be denied that he was an earnest, conscientious servant of his country, who made the Constitution the constant guide of his public acts. Had he devoted himself entirely to diplomacy he would probably now stand in American history near to the side of Franklin.

The crucial nature of the Kansas question was indicated by President Pierce beginning his message to Congress on December 2, 1856, not, as customary, with foreign affairs, but with the situation in that distracted Territory. This he treated from an extreme partisan standpoint, justifying the Administration's course in the matter, which, it must be admitted, had been most vacillating; denouncing the policy of the Opposition; and exulting over their defeat in the late election.¹ Upon this message Senator John P. Hale [N. H.] caustically commented:

"The President undertakes to pronounce *ex cathedra* upon what were the issues involved in the last presidential

¹ The speech under the title of "The Defeat of Sectionalism" is given in *Great Debates in American History*, vol. iv., p. 372.

election, and to tell what the people have decided. I will tell him, to begin with, that there was one thing which they decided before they went into the contest, and that was, let who would be chosen, they would not have a second edition of him."

In his inaugural address on March 4, 1857, President Buchanan presented his policy upon Kansas. The principle of Popular Sovereignty he pronounced a "happy conception," the acquiescence in which by the country in the late election had exhibited a "grand and striking spectacle of the capacity of man for self-government."

A difference of opinion has arisen in regard to the point of time when the people of a Territory shall decide this question [slavery or freedom] for themselves. This is, happily, a matter of little practical importance. Besides, *it is a judicial question which legitimately belongs to the Supreme Court*, before whom it is now pending, and will, it is understood, *be speedily and finally settled*.

The Dred Scott Decision. The case before the Supreme Court to which the President referred was that of "*Dred Scott vs. Sanford*."¹

Dred Scott, a negro, was, previously to 1834, held as a slave in Missouri by Dr. Emerson, a surgeon in the army. In that year the doctor was transferred to the military post at Rock Island, Ill., and took Scott as a slave with him. Here Major Taliaferro had, in 1835, a negress in his service known as Harriet, whom he, too, held as a slave. The doctor and the major were transferred in the same year to Fort Snelling on the site of the present St. Paul in Minnesota, which was then

¹ For an interesting story of this case the reader is referred to *Decisive Battles of the Law*, by Frederick Trevor Hill, Esq.

unorganized territory, and expressly covered by the slavery prohibition of the Missouri Compromise. Here the doctor purchased Harriet, and she and Dred were married to each other. Dr. and Mrs. Emerson then removed to other army posts, and two daughters were born to the Scotts north of Missouri, parents and children being held as slaves. The Emersons, with Dred and Harriet and their daughters, then returned to St. Louis. Six years later Dr. Emerson died in Iowa, leaving a will, probated in that State, by which his property was bequeathed to his wife in trust for his daughter; and his brother-in-law, John F. A. Sanford, of New York City, was appointed one of the executors. Two years later Mrs. Emerson returned from St. Louis to Massachusetts, abandoning the Scotts, since she did not desire to sell familiar house-servants and her right to emancipate them was questionable under the will. Because of his menial service at the army posts Dred had no trade, and found himself unable to support himself and his family, and they all became a charge on the bounty of a man in St. Louis, Taylor Blow, who was the son of Dred's former master in Virginia. Mr. Blow turned over the case of the Scotts to a local firm of attorneys, Messrs. Field and Hall, who, probably to lay the basis, in the interest of Mr. Blow, for a claim against the Emerson estate for the wages Scott would be entitled to, if declared free from 1834 onward, began suit for freedom of Scott on the ground of technical false imprisonment, etc., by Mrs. Emerson. In January, 1850, they obtained a verdict in favor of their client. The case was carried to the Supreme Court of Missouri, which, in March, 1852, decided against the plaintiff by a vote of two to one.

Now Mrs. Emerson had become a citizen of Massa-

chusetts by marrying Dr. Calvin C. Chaffee of Springfield in that State, a physician and a member of Congress. This made it possible to bring the Scott case before the Supreme Court of the United States as an issue between citizens of different States. Mr. Field, of Field and Hall, therefore instituted a new action for Scott in the Federal Court of the District of Missouri. Evidently, because of his professional and political positions, Dr. Chaffee did not care to have himself and his wife figure in a slave suit, and so had Mrs. Chaffee transfer the title of the Scotts to her brother, Mr. Sanford, the executor of Dr. Emerson's estate. Messrs. Garland and Norris were Sanford's attorneys. The case was decided against Scott, and appealed to the United States Supreme Court on May 15, 1854, ten days before the Repeal of the Missouri Compromise.

The fact that there was a case ready at hand which would afford in every respect a test of the constitutionality of the prohibition of slavery in the Compromise attracted the interest of the legal profession, and the counsel in the case had no difficulty in securing eminent assistance. The prosecution engaged Montgomery Blair, of Washington, and George Ticknor Curtis, of Boston, a brother of Associate-Justice Benjamin R. Curtis, of the Supreme Court; to the defense were added United States Senator Henry S. Geyer, the leader of the St. Louis bar, and Reverdy Johnson, of Baltimore, who had been United States Attorney-General. The case was tried in December, 1856. In a private conference of the Supreme Court a majority voted to sustain the lower court, and to Associate-Justice Samuel Nelson [N. Y.] was assigned the writing of the decision, with instruction to avoid

all reference to the constitutionality of the prohibition of slavery in the Territories.

At this point the pro-slavery politicians, Representative Alexander H. Stephens [Ga.] in particular, became active, and, by suggesting to the Justices, when they met them socially, that the case offered an opportunity of ending forever the dispute which was dividing the country, caused them to hold a second conference at which the suggestion was followed. Their action was definitely known by Mr. Stephens, as indicated in a letter of his at the time, undoubtedly by President Buchanan, and probably by all the Administration leaders.

Two days after President Buchanan's inauguration the decision of the Court was pronounced by Chief-Justice Roger B. Taney [Md.]. It was vehemently attacked by William H. Seward in the Senate, and, in defense of his action, on March 11, the Chief-Justice issued a supplementary opinion explaining and justifying the decision. The opinions of the other members of the Court were published at the same time.

The decision not only nullified the anti-slavery clause in the Missouri Compromise, but declared that prohibition by Congress of slavery in any Territory was unconstitutional; it denied to Dred Scott, or to any person "whose ancestors were imported to this country and sold as slaves," the right to sue in a court of the United States, since it held that they were not "citizens" in the intent of the Constitution, and therefore not in possession of the civil rights guaranteed by that instrument.

The Chief-Justice said:

At the time of the Declaration of Independence and the formation of the Constitution, and for more than a century

before, negroes had been regarded as beings altogether unfit to associate with the white race, either in social or political relations; and so far inferior that *they had no rights which the white man was bound to respect.* They were considered as articles of property merely. Any other view would have made the conduct of the distinguished men, many of them owners of slaves, who framed the Declaration and Constitution flagrantly inconsistent with the principles which they asserted therein.

The Chief-Judge then stated that slavery was abolished by our fathers, not because it was felt to be wrong, but because it was found to be unprofitable in the particular localities.

Even the free States countenanced the slave trade in its worst form, seizure and transportation, and the people could hardly be supposed to have regarded the negroes who were emancipated as entitled to equal rights with themselves.

He declared that no State could justly make its black people citizens, because that would be unsafe for the slaveholders of other States.

It would give to the negro citizens of one State the right to enter every other State, singly or in companies, going wherever they pleased and doing whatsoever they willed unless they committed a violation of the law for which a white man would be punished. They would have full liberty of speech, and could carry arms. This would produce insubordination among the slaves, and so endanger the peace and safety of the State.

He held that Article IV., sec. 3, of the Constitution, giving Congress power over United States territory, applied only to that territory which belonged to the

United States at the time the Constitution was adopted. The Missouri Compromise was therefore null.

Associate-Justices James Moore Wayne [Ga.], Samuel Nelson [N. Y.], Robert Cooper Grier [Pa.], Peter Vivian Daniel [Va.], and John A. Campbell [Ala.], concurred in the opinions of the Chief-Justice. John Catron [Tenn.] dissented to that opinion alone which held that the Constitution referred only to the United States territory held at the time of the adoption of the instrument. Associate-Justices John McLean [O.] and Benjamin Robbins Curtis [Mass.] dissented from all the opinions.

Said McLean:

Colored persons are made property by the law of a State only. The master of a slave does not carry the laws of his State with him when he leaves its boundaries. A slave is not a mere chattel. He bears the impress of his Maker, and is amenable to the laws of God and man, and he is destined to an endless existence.

Curtis said:

If a citizen of a slave State has a right to take his slaves to a Territory, and hold them there as slaves without regard to the laws of the Territory, to a citizen of a free State the right can hardly be denied of becoming a slave-holder there. Where then is the law under which he would do this? He did not bring it with him.

He denied the statement of the Chief-Justice as to the opinions on slavery held by the Fathers.

At the time of the ratification of the Articles of Confederation all free, native-born inhabitants of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only

citizens of those States, but such of them as had the other necessary qualifications possessed the franchise of electors, on equal terms with other citizens.

Negro voters ratified not only the Confederation but the Constitution, so this was not made *by* the white race exclusively. That it was made *for* the white race exclusively is not only a baseless assumption, but is explicitly contradicted by the declaration in the Constitution that this instrument was ordained and established by the *people* of the United States for themselves and their posterity. As I have shown, part of these people were negro citizens.

He showed that the laws of Congress recognized that negroes may be citizens of the United States in the very limitations the laws decreed.

Thus the Militia Act of May 17, 1792, directed the enrollment of every "free, able-bodied, white male citizen." An assumption that none but white persons are citizens would be as inconsistent with the just import of this language as that all citizens are "able-bodied" or "male."

In the view of the framers of this and similar laws *color* was not a necessary qualification for citizenship. By solemn treaties large bodies of Mexican and North American Indians, as well as free colored persons of Louisiana, have been admitted to citizenship in the United States.

The Associate-Judge then cited the action of Congress in 1821 on the admission of Missouri, whereby that applicant for Statehood was constrained to abandon her proposed prohibition of free negroes from settling within her borders.¹

This expresses the conviction of Congress at that time that free negroes, as citizens of *some* of the States, might be

¹ See page 154.

entitled to the privileges and immunities of citizens in *all* the States.

He summed up his conclusions as follows:

1. Free, native-born citizens of each State are citizens of the United States.
2. Free negroes in some of the States come under this class.
3. They have the rights in Federal courts of citizens.
4. Dred Scott has such rights.

He held that the decision as to the unconstitutionality of the restriction of slavery in the Missouri Compromise transcended the authority of the Court, as described by its repeated decisions, and, as he understood, as acknowledged by the majority of the Court in this very case.

The decision of a majority of the Court in the Dred Scott case was strikingly inconsistent in that, after declaring that the claimant for freedom had no standing in that Court, the case being outside of its jurisdiction, it proceeded to take and make jurisdiction for the purpose of ousting Congress from all right to exclude slavery from United States territory, organized or unorganized.

Sketch of Taney. Roger Brooks Taney (pronounced Tawny) was born in Calvert County, Md., in 1777. His father was a Roman Catholic planter. The son was graduated at Dickinson College, Pa., in 1795, and was admitted to the bar three years later, and began practice in his home county. In the same year he was elected as a Federalist to the legislature, being its youngest member. Here he distinguished himself as a debater of mature powers. He was defeated at the next election and removed to Frederick. Soon he became a lawyer of State-wide reputation. In 1811 he defended on principle and without fee the unpopular

General James Wilkinson at a court-martial, incurring much odium thereby. During the War of 1812, though a Federalist, he patriotically supported the Administration. He was sent to the State Senate in 1816, and became the framer of its most important bills. In 1819 he defended Jacob Gruber, a Methodist minister from Pennsylvania, who had been indicted for condemning slavery at a Maryland camp-meeting. Taney declared that "slavery, while it continues, is a blot on our national character." He removed in 1823 to Baltimore, where he became the acknowledged leader of the State bar. With many other former Federalists of the South, on the dissolution of that party he became a Democrat, supporting Andrew Jackson for the Presidency. In 1827 he was appointed Attorney-General of Maryland, and, in 1831, Attorney-General of the United States, becoming the President's chief counselor, sustaining him, in particular, in his war on the United States Bank. He therefore became a chief object of vituperation by the Whigs, who, being in a majority in the Senate, succeeded, in 1834, in rejecting his appointment as Secretary of the Treasury, the first instance of non-confirmation of a Cabinet appointment. President Jackson then appointed him to the Supreme Court, but this appointment the Senate also rejected. However, in 1835 the political complexion of the Senate changed, and Taney's appointment as Chief-Justice, on the death of John Marshall, was confirmed.

His judicial opinions at once showed a divergence between his view of the Constitution and that of his predecessor, many of the decisions declared by whom were reversed by his vote and influence. State rights were upheld against Federal powers.¹ In particular

¹ *Briscoe vs. the Bank of Kentucky* is a typical example of this.

he opposed the principle of the Dartmouth College case,¹ by holding that a State legislature was free to authorize internal improvements without regard to implied contracts in former grants.² These decisions almost impelled Associate-Justice Joseph Story to resign, and Chancellor James Kent, of New York, said that they made him lose confidence in the Supreme Court as the guardian of the Constitution. In the famous case of *Prigg vs. Pennsylvania*, Taney held the State law to be unconstitutional, the first instance of the kind in the history of the Court. Prigg, as agent for a Maryland slaveholder, had seized a female slave in Pennsylvania, and carried her back to Maryland. For this he was indicted under a Pennsylvania law which made it a penal act to carry a negro forcibly out of the State. Associate-Justice Story delivered the opinion of the Court which declared the law unconstitutional, because jurisdiction over "fugitives from labor" was vested exclusively in Congress.

During the administration of Lincoln, Taney denied the right of the President to suspend the writ of *habeas corpus*,³ affirming that such power is vested in Congress alone. He died on October 12, 1864, the day on which his State abolished slavery. His decisions and opinions are contained in *Supreme Court Records*, edited by Associate-Justice Benjamin R. Curtis *et al.* He wrote President Jackson's Farewell Message, and had, at his death, brought down an *Autobiography* to 1801, which forms the introduction to a *Memoir of Chief-Justice Taney*, by Samuel Tyler (1872).

Sketch of McLean. John McLean was a native of New Jersey (born 1785), whose father, a poor man with

¹ See Volume I., page 353.

² The Charles River Bridge case.

³ The case of John Merryman.

a large family, removed to the West, finally settling, in 1799, on a farm in Warren County, Ohio. John studied law in Cincinnati, and in 1807 began practice at Lebanon, the county-seat of Warren County. In 1812 he was elected to Congress as a Republican (Democrat). In 1816 he was elected to the Supreme Court of Ohio, and in 1822 was appointed by President Monroe Land Commissioner. The following year he was advanced to the position of Postmaster-General, in which he introduced many administrative reforms in his department. He was continued in office by President J. Q. Adams, and would have been retained by President Jackson, but declined, because he opposed that Executive's inauguration of the "spoils system" in appointments to public office. Jackson tendered him successively the War and Navy departments, and, upon his declination of both, appointed him to the Supreme Court. He was an early and consistent opponent of the extension of slavery, and, as such, was the leading contestant of Frémont for the Republican Presidential nomination in 1856, receiving 196 votes to Frémont's 359. He also received a number of votes in the Republican convention of 1860. He died in 1861.

Sketch of Curtis. Benjamin Robbins Curtis was born in Watertown, Mass., in 1809. He was graduated from Harvard in 1829, and admitted to the bar in 1832. In a short time he established himself at Boston, where his legal ability soon attained for him a high reputation. He was a Whig in politics. President Fillmore appointed him to the Supreme Court in 1851. He resigned from the Court in 1857, and devoted himself to his profession, serving, however, two years in the Massachusetts legislature. In 1868 he defended President Johnson in his impeachment trial. The answer

to the articles of impeachment was largely his work, and his speech in defense of the President was commended for its legal soundness and rhetorical clearness and force. He was a Democratic candidate for Senator in 1874. He published many law books, the most notable of which is *Decisions of the Supreme Court. A Memoir and Writings of Benjamin R. Curtis*, by George Ticknor Curtis and Benjamin R. Curtis, Jr., was published in 1880.

Senator Douglas accepted the Dred Scott decision although it denied his favorite principle of Popular Sovereignty. On June 12, 1857, he made a speech at Springfield, Ill., in which he passed under the party yoke on this question. Two weeks later (June 26) Abraham Lincoln replied to him at the same place. He said:

We believe as much as Judge Douglas (perhaps more) in obedience to, and respect for, the judicial department of government. But we think the Dred Scott decision is erroneous. We know the court that made it has often overruled its own decisions, and we shall do what we can to have it overrule this. We offer no resistance to it.

This same Supreme Court once decided a national bank to be constitutional, but General Jackson, as President of the United States, disregarded the decision and vetoed a bill for its recharter, partly on the constitutional ground that each public functionary must support the Constitution "as he understands it." Again and again have I heard Judge Douglas denounce that bank decision, and applaud Jackson for disregarding it.

There is a natural disgust in the minds of nearly all white people at the idea of amalgamation of the white and black races, and Judge Douglas evidently hopes to appropriate the benefit of this disgust to himself. He makes an occasion for lugging it in from the opposition to the Dred Scott

decision. He holds that all who contend that the Declaration of Independence includes negroes do so only because they want to vote, and eat, and sleep, and marry with negroes! Now I protest against that counterfeit logic which concludes that, because I do not want a black woman for a slave, I must necessarily want her for a wife. I need not have her for either. I can just leave her alone. In some respects she is certainly not my equal; but in her natural right to eat the bread she earns with her own hands without asking leave of anyone else, she is my equal, and the equal of all others.

CHAPTER XII

POPULAR SOVEREIGNTY

The Lecompton Constitution for Kansas—Division of the Democracy upon it—Senator Stephen A. Douglas [Ill.] Opposes the Administration on the Popular Sovereignty Issue—Debate between Douglas and Abraham Lincoln [Ill.] in Contest for the Senate—Sketches of the Debaters—Lincoln Succeeds in Getting Douglas to Declare for “Unfriendly Legislation” against Slavery by the Territorial Legislatures—Lincoln Loses the Senatorship thereby, but Alienates the South from Douglas—Speech of Senator Judah P. Benjamin [La.] against Douglas—Speech of Douglas at Memphis, Tenn., on the “Moral Climate” Line between Free and Slave Soil—Reply of Lincoln at Chicago.

PRESIDENT PIERCE had superseded Wilson Shannon as Governor of Kansas with John W. Geary [Pa.]. Geary resigned in disapprobation of the policy of the Administration toward the Territory. President Buchanan persuaded Robert J. Walker [Miss.], the distinguished ex-Secretary of the Treasury who had retired from public life, to take the difficult position. Governor Walker dealt fairly with both factions, and succeeded in reducing materially the disorders.

In September, 1857, the pro-slavery Kansans held a constitutional convention at Lecompton. The constitution adopted recognized slavery, and the convention provided that it be submitted to the people to vote upon its acceptance with or without slavery, but not to be rejected in its entirety. The free-State men refused

to vote at the election, and the constitution with slavery was adopted by a great majority.

In the meantime an election for a new Territorial legislature had been held, at which, in despite of many fraudulent votes cast by pro-slavery Missourians, a majority of free-State legislators and a free-State delegate to Congress were chosen. This legislature repudiated the former constitutional election and ordered another one to be held on January 4, 1858, at which the Lecompton constitution was to be voted upon as a whole. The pro-slavery men refused to take part in this, and the vote against the constitution was virtually unanimous. During the ensuing session of Congress the validity of the Lecompton constitution was the chief subject of debate. President Buchanan endorsed it. Senator Stephen A. Douglas [Ill.] opposed it because of its violation of the principle of Popular Sovereignty. This difference widened into a great and irreparable breach between these Democratic leaders and their respective followers which ended in the disruption of the party. On February 8, 1858, the Republicans and Douglas Democrats in the House refused, by a majority of three votes, to admit Kansas into the Union with the Lecompton constitution. On March 23 the Senate passed a similar bill by a vote of 33 to 25. On April 1 the House rejected this bill by a majority of 42. Then, by a vote of 120 to 112, the House voted to submit the Lecompton constitution to a vote of the people of Kansas. The Senate rejected this bill by a vote of 32 to 23. A conference committee was ordered. Representative William H. English [Ind.],¹ of the

¹ English was a lawyer who had entered Congress in 1853; he served until 1861. In later life (1880) he was nominated for Vice-President by the Democratic party.

conference, a supposed Douglas Democrat, decided its report in favor of permitting Kansas to vote simply on accepting Congress's disposition of public lands in the new State; if the vote were in favor of this, Kansas would be admitted with the Lecompton constitution, and if opposed to it, a new constitutional convention would be held to decide the question of slavery. This meant that Kansas would be rewarded for voting for slavery by land grants and immediate Statehood. On April 30, 1858, the bill was passed in the House, 112 votes to 103, and in the Senate by 31 votes to 22, and was signed by President Buchanan.

Kansas refused to be bribed, and voted down the Lecompton constitution. The new constitutional convention was held at Wyandotte, in March, 1859. It framed a free-State constitution, which was ratified at a popular election in October. At the same time Republican State officers and a Republican Congressman were elected. The Republican House, on February 15, 1860, passed a bill, by a vote of 134 to 73, admitting Kansas with the new constitution. The Democratic Senate negatived the bill by a vote of 32 to 27. On January 21, 1861, the day when the Senators from the seceded States resigned their seats, the Senate passed a bill to the same effect, and, on January 28, the House accepted it, and President Lincoln signed the act, ending the seven years' contest.

The Lincoln-Douglas Contest for the Senate. In 1858 Senator Douglas's term was about to expire. He realized that he could gain no assistance, and would probably meet opposition, from the Administration, whose power in his State was wielded through post-masters and other Federal office-holders. Accordingly he prepared himself for "the fight of his life." The

Republicans selected at Springfield, on June 16, 1858, as his antagonist the ablest and most popular man of their party in Illinois, Abraham Lincoln, the inveterate opponent of Douglas and his policies. Lincoln accepted the nomination in a speech which he had carefully prepared and read to his friends. William H. Herndon, his law partner, said that it would make him President. All others declared that the position he took in it that the nation could not continue half slave and half free was unwise, one blunt friend calling it a "damned fool speech" which would lose Lincoln the election. But Lincoln replied:

"The time has come when these sentiments should be uttered, and, if it is decreed that I shall go down because of this speech, then let me go down linked to the truth."

And, after the defeat which was prophesied had come to pass, he said:

"If I had . . . to erase my whole life from remembrance, and I had a choice allowed me what I might save from the wreck, I would choose that speech, and leave it to the world just as it is."

This was the famous "House Divided" speech which may be found in all collections of Lincoln's works. Its foundation stone is the passage:

"'A house divided against itself cannot stand.' I believe this government cannot endure permanently half slave and half free. I do not expect the Union to be dissolved—I do not expect the house to fall—but I do expect it will cease to be divided. It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it, and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction;

or its advocates will push it forward till it shall become alike lawful in all the States, old as well as new, North as well as South."

On July 9, at a public reception given him in Chicago, Douglas hurled defiance at the "coalition" of Republicans and Administration Democrats against him.

"I shall deal with this allied army just as the Russians did at Sebastopol: they did not stop to inquire, when they fired a broadside, whether it hit an Englishman, a Frenchman, or a Turk."

On the following day, in a speech in the same city, Lincoln drily commented on this:

"We barely suggest to him [Douglas] that these allies took Sebastopol."

On July 24 Lincoln challenged Douglas to a series of joint debates. Douglas accepted, stipulating that the debates be held in central towns in each Congress district. To this Lincoln assented.

The national importance of the contest was recognized by newspapers as far away as New York sending special representatives to report the debates. One of these, Chester P. Dewey, of the New York *Evening Post*, edited by William Cullen Bryant, thus described the contestants as they appeared at the first debate in Ottawa, August 21.

"Two men presenting wider contrasts could hardly be found as the representatives of the two great parties. . . . Douglas, a short, thick-set, burly man with large, round head, heavy hair, dark complexion, and fierce, bulldog

look. Strong in his own real power, and skilled by a thousand conflicts in all the strategy of a hand-to-hand or a general fight; of towering ambition, restless in his determined desire for notoriety, proud, defiant, arrogant, audacious, unscrupulous, 'Little Dug' ascended the platform, and looked out impudently and carelessly on the immense throng which surged and struggled before him. A native of Vermont . . . forgetful of the ancestral hatred of slavery to which he was the heir, he had come . . . to owe much of his fame to continued subservience to Southern influence.

"The other—Lincoln—is a native of Kentucky, of 'poor white' parentage, and from his cradle has felt the blighting influence of the dark and cruel shadow which rendered labor dishonorable, and kept the poor in poverty, while it advanced the rich in their possessions. . . . In every relation of life, socially and to the State, Mr. Lincoln has been always the pure and honest man. In physique he is the opposite to Douglas. Built on the Kentucky type, he is very tall, slender, and angular, awkward even in gait and attitude. His face is sharp, large-featured, and unprepossessing. His eyes are deep-set under heavy brows, his forehead is high and retreating, and his hair is dark and heavy. In repose I must confess that 'Long Abe's' appearance is *not* comely. But stir him up, and the fire of genius plays on every feature. His eye glows and sparkles; every lineament, now so ill-formed, grows brilliant and expressive, and you have before you a man of rare power and strong, magnetic influence. He *takes* the people every time, and there is no getting away from his sturdy good sense, his unaffected sincerity, and the unceasing play of his good-humor, which accompanies his close logic, and smooths the way to conviction. . . . I was convinced he had no superior as a stump-speaker. He is clear, concise, and logical; his language is eloquent and at perfect command. He is altogether a more fluent speaker than Douglas, and in all the arts of debate fully his equal."

M. C. Rindlaub, a newspaper reporter, thus describes the second debate at Freeport.¹

"It was my good fortune to be present at a discussion between Lincoln and Douglas at Freeport, Illinois, in 1858. The railroad accommodations at that time were poor compared to those of the present, but the people gathered by thousands from all parts of the country within a radius of fifty miles.

"Meetings were held in advance by each party at every hamlet and crossroads in order to awaken adherents to the importance of being present to encourage and support its champions. Great delegations were organized which rallied at convenient points, and men and women on horseback, and a few in wagons and carriages, formed processions, many of which were more than a mile in length. They usually started the night before, and, headed by bands of music with flags and banners, and with hats and handkerchiefs waving, proceeded to the place of meeting. As they marched the air was rent with cheers—in the Republican procession for 'Honest old Abe,' and in the Democratic for the 'Little Giant.' The sentiments painted in great letters on the banners carried in each of these processions left no one in doubt. On the banners of the Douglas processions were such sentiments as 'Squatter sovereignty,' 'Popular sovereignty,' 'Let the people rule,' 'This is a white man's country,' 'No nigger equality,' 'Hurrah for the "Little Giant"!' On the other hand, the Republicans carried banners with such mottoes as 'Hurrah for Old Abe!' 'Lincoln, the railsplitter and giant-killer,' 'No more slave territory,' 'All men are created equal,' 'Free Kansas,' 'No more compromise.'

"Each party had great wagons specially fitted up, drawn, by four, eight, and sometimes twelve horses, bearing young ladies who represented the States of the Union. In the

¹ From "Personal Recollections of Abraham Lincoln," in the *National Magazine* for February, 1916.

Republican procession one of the young ladies was usually dressed in mourning to represent bleeding Kansas. Over the young ladies, in one Douglas wagon, was displayed a banner bearing the sentiment, 'Fathers, protect us from negro husbands.'

"The speakers' stand was a temporary affair, about six feet high, built of rough pine boards, and decorated with flags and bunting. Only a few seats were provided, but long before the time appointed for the speaking to commence a great crowd had assembled prepared to *stand* during the *three hours'* struggle.

"Douglas arrived on the scene in a coach drawn by four gaily caparisoned horses, which had been placed at his disposal by his admirers. His coming was greeted by a rousing welcome. Scarcely had the cheering occasioned by his appearance ceased when an old-fashioned Conestoga wagon, drawn by four horses, was driven up to the stand. On one of the seats sat Lincoln, accompanied by half a dozen farmers in their working clothes. The driver was seated on the rear near the horse, and guided the team with a single rein attached to the bridle of one of the lead horses. The burlesque on Douglas's coach was as complete as possible, and the effect was greeted by a good-natured roar.

"Douglas spoke first and he was frequently interrupted by vociferous applause. At the close of his speech the cheering and hand-clapping was prolonged and tumultuous. When Lincoln rose the crowd broke into cheers again for Douglas, keeping it up for several minutes, Lincoln, in the meanwhile, waiting patiently. When at length the enthusiasm subsided, he extended his long right arm for silence. When he had partly gained this he said in an impressive tone, 'What an orator Judge Douglas is!' This unexpected tribute to their friend aroused wild enthusiasm in the audience. When this applause had run its course Lincoln extended his hand again, this time obtaining silence more easily. 'What a fine presence Judge Douglas has!' exclaimed the speaker earnestly. Again tumultuous applause followed the trib-

ute. More and more easily the tall, gaunt lawyer won silence as he went on with admiring exclamations: 'How well rounded his sentences are!' ending with 'What a splendid man Judge Douglas is!' Then, when the audience had again become silent at his call, Lincoln leaned forward and said, 'And now, my countrymen, how many of you can tell me one thing Judge Douglas said?' There was no reply and Lincoln proceeded to speak without interruption. . . .

"The contrast between Lincoln and Douglas could hardly have been more marked. Lincoln was six feet four inches tall, and overtopped by several inches all who surrounded him. He was swarthy as an Indian, with wiry, jet-black hair, which usually was in an unkempt condition. He wore no beard, and his face was almost grotesquely square—he called himself lantern-jawed. His eyes were bright, keen, and of a luminous gray color, though his eyebrows were black like his hair. His face usually had a careworn, haggard look, but his laugh was delightful, a high musical tenor—contagious. His figure was gaunt, slender, and slightly bent. He was clad in a rusty black Prince Albert coat, with somewhat abbreviated sleeves. His black trousers, too, were so short that they gave an exaggerated size to his feet. He wore a high 'stovepipe' hat somewhat the worse for the wear. He carried a gray woolen shawl, a garment much worn by men in those days instead of an overcoat. He usually carried a faded green umbrella, with 'A. Lincoln,' in large letters, on the inside.

"Douglas was of very small stature and, standing by the side of Lincoln, appeared almost like a dwarf. But he was square-shouldered and broad-chested, with a massive head on a strong neck, the very embodiment of force, combativeness, and staying power. He was very well clothed in neatly fitting garments and shining linen, and while Lincoln traveled from place to place on the regular railroad train in the ordinary passenger car, Douglas traveled in great style in a special train, with cars elaborately decorated for the occasion, and accompanied by a secretary

and servants, and a numerous escort of loud companions. On account of his superior intellectual ability he was called the 'Little Giant.' His manner was arrogant and at times insolent. When he first began speaking he invariably alluded to the Republicans as 'Black Republicans.' This was always resented by them with loud interruptions. Douglas would become angry and demand that the interruption should cease, saying that he had supposed he was addressing gentlemen. The crowd responded: 'We are gentlemen, and if you treat us as such you will not be interrupted.' After he ceased using that opprobrious epithet everything went on smoothly.

"Lincoln's manner of speaking was plain and unimpassioned. He gesticulated very little with his arms, but moved his body from one side to the other. Sometimes he would bend his knees so that they would almost touch the platform, and then he would shoot himself up to his full height emphasizing his utterance in a very forcible manner."

Senator Douglas opened the Ottawa debate by charging that the Republican party was an Abolition one in disguise. To support this contention he read a platform which he claimed had been adopted at Springfield in October, 1854, the year of the party's formation.

He then asked Mr. Lincoln to declare himself on each of these planks.

I ask him to answer these questions in order that, when I trot him down to lower Egypt,¹ I may put the same questions to him. My principles are the same everywhere. They apply wherever the Constitution prevails and the American flag waves. I desire to know whether Mr. Lincoln's principles will bear transplanting from Ottawa to Jonesboro.

¹ The southern end of Illinois, which had been settled from the South, and was therefore pro-slavery in sentiment.

Douglas then read the foundation passage of Lincoln's "House Divided" speech, and the sentiments received the cheers of the hostile audience. He committed upon them as destructive of the existence of the government.

Suppose this doctrine of uniformity had prevailed at the formation of the nation, what would have been the result? The twelve slaveholding States would have overruled the one free State [New Hampshire] and slavery would have been fastened by a constitutional provision on every inch of the American republic, instead of being left, as our fathers wisely left it, to each State to decide for itself.

He repeated his former charge that Lincoln's opposition to the Dred Scott decision implied acceptance of negro equality.¹

I believe that this government was made by white men for the benefit of white men and their posterity forever, and I am in favor of confining citizenship to white men . . . instead of conferring it upon negroes, Indians, and other inferior races.

More important than the slavery question to the people of Illinois, said the Senator, was "what shall be done with the free negro?"

We have said that he shall not vote. Maine has said that he may. I am not going to quarrel with Maine. She is a sovereign State, and has the power to regulate the qualifications of her voters.

This brought the "Squatter Sovereign" to the principle which he had made his own—Popular Sovereignty. He declared that under this principle the

¹ See page 328.

Republic had flourished for seventy years, advancing from a feeble nation to the most powerful on the globe.

I believe that this new doctrine preached by Mr. Lincoln and his party will dissolve the Union if it succeeds. They are trying to excite a sectional war between the free and the slave States, in order that one or the other may be driven to the wall.

Mr. Lincoln accepted the challenge of Senator Douglas to announce his opinions on the several issues of the slavery question.

He quoted from his Peoria speech in 1854 a passage to show that he was in favor of giving his "brethren of the South" any legislation for the reclaiming of their fugitives "which shall not, in its stringency, be more likely to carry a free man into slavery than our ordinary criminal laws are to hang an innocent one."

I have no purpose, directly or indirectly, to interfere with slavery in the States where it exists. I have no purpose to introduce political and social equality between the white and black races. The Judge's idea of such equality is but a specious and fantastic arrangement of words by which a man can prove a horse-chestnut to be a chestnut horse.

He then explained the purport of his "House Divided" speech.

The Judge declares that I am in favor of bringing about a dead uniformity in the various States in all their institutions. He errs. I regard natural diversities, which develop exchange of products, etc., as bonds of union. But slavery is an unnatural, political diversity, which has always been an apple of discord and an element of division in the national house. Nevertheless, until recently, it could be borne with, because of the precautions taken against its

spread. But lately the Judge, and those acting with him, have placed slavery upon a new basis which looks to the perpetuity and nationalization of the institution.

A man in the audience here asked: "Then do you repudiate Popular Sovereignty?" Lincoln replied:

My understanding of Popular Sovereignty as now applied to the question of slavery is that it allows the people of a Territory to have slavery if they want it, but does not allow them not to have it if they do not want it, for this is the effect of the Dred Scott decision in which Judge Douglas acquiesces. Another decision of the Supreme Court may apply the same principle to the free States. The Judge seems to have paved the way for this by his language in the Nebraska act, in which he stated that it was not the intention of the bill "to legislate slavery into any Territory or State." The Supreme Court has legislated slavery into the Territories. Does the Judge expect, and will he accept similar legislation in respect to the States? If he did not so anticipate, why did he introduce the otherwise irrelevant word?

I cannot shake Judge Douglas's teeth loose from the Dred Scott decision. Like some obstinate animal that will hang on when he has once got his teeth fixed, you may cut off a leg, still he will not relax his hold. He is bespattered all over, from the beginning of his political life, with attacks upon judicial decisions,¹ yet I cannot divert him from the Scott decision. These things show that there is a purpose strong as death for which he adheres to this decision, and will adhere to all other decisions of the same court. [Here an Irish partisan of Douglas indicated that the point had gone home by crying out: "Give us something besides Drid Scott!"]

Henry Clay, my *beau idéal* of a statesman, once said of a class of men who would repress all tendencies to ultimate

¹ See page 213.

emancipation that, if they would do this, they must go back to the era of our independence and muzzle the cannon which thunders its annual joyous return; they must blow out the moral lights around us; they must penetrate the human soul and eradicate there the love of liberty; and then, and not till then, could they perpetuate slavery in this country. Judge Douglas, by his example and vast influence, is doing this. When he says that the negro has no part in the Declaration of Independence, he is muzzling the cannon which celebrates our liberty. When he invites any people, willing to have slavery, to establish it, he is blowing out the moral lights. When he says that he "cares not whether slavery is voted up or down"—that it is a sacred right of self-government—he is penetrating the human soul and eradicating reason and the love of freedom in this American people. And when he shall have succeeded in bringing public sentiment to his views, then it needs only the formality of the second Dred Scott decision, which he endorses in advance, to make lawful and perpetuate slavery in all the States.

Senator Douglas replied that he put the word "State" in the Nebraska bill to meet just such arguments as Lincoln was adducing.

I meant to knock in the head this Abolition doctrine of his that there shall be no more slave States, even if the people want them.

At the second debate, which was held at Freeport, on August 27, Lincoln answered categorically the questions which had been put to him by Douglas at Ottawa.

He did not favor the unconditional repeal of the Fugitive Slave law. He was not pledged against the admission of any more slave States into the Union, nor that of any State under such a constitution as its people chose to frame. He

was not pledged to abolition of slavery in the District of Columbia, or to prohibition of the slave trade between the States. In regard to prohibiting slavery in all the Territories, north as well as south of the Missouri Compromise line, he said that he was impliedly, if not expressly, pledged to a belief in the right and duty of Congress so to act. In regard to opposing acquisition of new territory unless slavery was first prohibited therein,¹ he said he would or would not oppose such acquisition accordingly as he thought it would or would not aggravate the slavery question.

He explained his position on slavery in the District of Columbia. He would vote for its abolition only on condition that it should be gradual, by majority vote of the residents, and that compensation be made to unwilling owners. He would not abolish the slave trade between the States except upon some conservative principle akin to that in the case of abolition of slavery in the Federal District.

He then propounded four questions to Douglas:

1. If the people of Kansas shall adopt a State constitution, and ask admission into the Union under it before they have the requisite population (93,000) according to the English bill, will you vote to admit them?
2. Can the people of a Territory in any lawful way, against the wish of any citizen of the United States, exclude slavery prior to the formation of a State constitution?
3. Would you acquiesce in a decision of the Supreme Court that the States cannot exclude slavery from their limits, and follow such decision as a rule of political action?
4. Are you in favor of acquiring additional territory in disregard of how such acquisition may affect the nation on the slavery question?

¹ This refers to the proposed annexation of Cuba. See *Great Debates in American History*, vol. iii., chap. iii.

Douglas answered the first question in the affirmative. He then put it to Lincoln, saying that Senator Lyman Trumbull, Douglas's Republican colleague, had refused to admit Oregon before she had the requisite population. "Let Lincoln take his own medicine."

Douglas answered the second question in an emphatic affirmative.

It matters not how the Supreme Court may hereafter decide as to the abstract question whether slavery may or may not go into a Territory under the United States Constitution; the people have the lawful means to introduce it or exclude it as they please, for the reason that slavery cannot exist a day anywhere *unless it is supported by local regulations*. If the people are opposed to slavery they will elect Territorial legislators who will, *by unfriendly legislation*, effectually prevent its introduction. If they are friendly to slavery, their legislation will favor its extension. Hence, no matter what the decision of the Supreme Court be, still the right of the people to make a free or slave Territory is complete under the Nebraska bill.

His affirmative answer to the third question was given with indignation.

Lincoln casts an imputation on the Supreme Court by supposing that they would violate the Constitution. Such a violation is not possible. It would be an act of moral treason that no man on that bench ever descended to.

He also said yes to the last question.

And when we have acquired the territory I will leave the people free to do as they please, either to make it slave or free territory, as they prefer.

He then propounded the same question to Lincoln, pausing for an answer. Lincoln did not reply.

He does not like to answer. Yet it is an article in his party platform. Yankee-like, he parries a question by putting one of his own to the questioner.

Here Douglas returned to the strongly Abolitionist Republican platform adopted in Illinois in 1854, which Lincoln, at Ottawa, had evaded endorsing by showing that Douglas was mistaken in saying that it was adopted at Springfield, thus implying its lack of authority as a pronouncement of the party.

Mr. Lincoln loses sight of the thing itself in his ecstasies over the mistake I made in stating the place where it was done. He thinks that the platform was not adopted at the right "spot."^x

Douglas then read the platform in question, which had been adopted at Rockford, on August 30, 1854. There were cries from the audience of approval of its strong anti-slavery sentiments. He said:

I am glad to find that you are more honest in your Abolitionism than your leaders, by avowing that it is your platform, and right in your opinion. When I get into the next district I will read it there, and so on through the State, until I nail the responsibility upon the Black Republican party of Illinois. [A voice: "Couldn't you modify and call it brown?"] Not a bit. I thought you were becoming a little brown when your members in Congress voted for the Crittenden-Montgomery bill [providing for a popular vote on the Lecompton constitution of Kansas], but since you have backed down from that position, and gone back to Abolitionism, you are black and not brown.

In commenting on the Rockford platform Senator Douglas frequently used the term "Black Republican,"

^x An allusion to the unpopular "Spot Resolutions" of Lincoln on the Mexican War. See page 214.

at which there were cries of "White! white!" from the audience. The speaker finally commented upon these interruptions:

I am clinching Lincoln now, and you are scared to death for the result. I have seen this thing before. I have seen men make appointments for joint discussions, and, the moment their man has been heard, try to interrupt, and prevent a fair hearing of the other side. I have seen your mobs before, and defy their wrath! [Tremendous applause.] When Lincoln was speaking there was no such display of vulgarity and blackguardism in the audience.

Lincoln, at the beginning of his reply, won the favor of his hearers by saying that, when he had spoken, he had used no "vulgarity or blackguardism" toward the Democrats. He frankly admitted that many of the Rockford resolutions were at variance with his positions.

In the beginning of the Republican party the members did not agree on everything, but they were unanimous against the Nebraska doctrine. The Rockford resolutions formed merely a local declaration. It was not a party platform. It was not until 1856 that such a platform was adopted for the State in regular convention.

I hope to deal in all things fairly with Judge Douglas and with the people of the State, in this contest. And, if I should never be elected to any office, I trust I may go down with no stain of falsehood on my reputation, notwithstanding the hard opinions Judge Douglas chooses to entertain of me.

He then referred to Douglas's break with his party on the Lecompton constitution, and his present efforts to mend the breach.

The Judge's eye is farther south now. Then it was very peculiarly and decidedly north. His hope rested on enlisting the great "Black Republican" party, and making it the tail of his new kite. He was then expecting from day to day to turn Republican, and place himself at the head of our organization.¹

He has found that these despised "Black Republicans" estimate him by a standard which he has taught them only too well. Hence he is crawling back into his old camp, and you will eventually find him installed in full fellowship among those whom he was then battling, and with whom he now pretends to be at fearful variance.²

The remaining debates were held at Jonesboro, Charleston, Galesburg, Quincy, and Alton. While many strong arguments were presented on old issues, and new issues were even started up, the historical importance of the controversy had culminated in Lincoln's securing from Douglas a statement and defense of his doctrine of "unfriendly legislation" toward slavery by the Territorial assemblies to defeat the effect of the Dred Scott decision and preserve the principle of Popular Sovereignty. This was known, from the place where first enunciated, as the "Freeport Doctrine." For this declaration Lincoln had been angling from the beginning. In a letter to Henry Asbury, of July 31, 1858, he had written of Douglas:

He cares nothing for the South; he knows he is already dead there. He only leans Southward more to keep the Buchanan party from growing in Illinois. You shall have

¹Indeed, Horace Greeley, the editor of the chief Republican organ, the *New York Tribune*, proposed that the Republican party should ally itself with Douglas in his quarrel with the Administration.

²As we shall see, Lincoln was mistaken, if not as to the intention of Douglas, as to its realization.

hard work to get him directly to the point whether a Territorial legislature has or has not the power to exclude slavery. But if you succeed in bringing him to it—though he will be compelled to say it possesses no such power—he will instantly take ground that slavery cannot actually exist in a Territory unless the people desire it, and so give it protection by Territorial legislation. If this offends the South, he will let it offend them, as at all events he means to hold on to his chances in Illinois.

At a conference of Republican leaders the night before the Freeport debate Lincoln announced his intention of forcing this declaration from Douglas. He was counseled not to do this, since the theory would be popular with the Illinois voters, and would probably win the Senatorship for Douglas. Lincoln replied that the South would never accept as President the man who enunciated the doctrine.

"I am gunning for larger game. The battle of 1860 is worth a hundred of this."

Events fulfilled Lincoln's prophecy. The South accused Douglas of violating a bargain with it. On February 2, 1860, Jefferson Davis [Miss.] introduced in the Senate resolutions repudiating the Freeport Doctrine. These were passed by a strictly partisan vote, thus "reading out" of the party the Senator who had enunciated the obnoxious theory.*

* For the debate on the resolutions see *Great Debates in American History*, vol. v., chap. vii. Of this debate Dr. Hermann von Holst, in his *Constitutional History*, says: "The debates on the Davis resolutions, to which American historians have hitherto paid scarcely any attention, are of much greater importance for the right understanding of the irrepressibleness of the conflict than the numberless compromise proposals and the endless negotiations between the Federal Executive and the seceded States which they never tire of following into the remotest details."

On May 22, 1860, Judah P. Benjamin [La.] said in the Senate:

"We accuse Douglas for this: that, having here bargained with us that the issue between us should be considered a judicial point, and that he would abide by the decision as a doctrine of the party, he went home, and, under the stress of a local election, his knees gave way and his whole person trembled. His adversary stood upon principle and was beaten; and lo! he is the candidate of a mighty party for the Presidency. Douglas got the prize for which he faltered, the Senatorship, but lo! the grand prize of his ambition slips from his grasp because of his ignoble faltering in the former and lesser contest.

In the election of State assemblymen which followed the Lincoln-Douglas debates the Republicans received a total majority of the votes cast, showing that Lincoln was the choice of the people for Senator. However, owing to a Democratic "gerrymander" of the State senatorial districts, a majority of Democratic senators were elected, which enabled the legislature to return Douglas to the United States Senate.

Lincoln was contented with the result, believing that Douglas's election on the Freeport Doctrine would divide the Democratic party into Northern and Southern factions, and so assure the election of a Republican President.

The Moral Climate Line. Because of the opposition to him by the leading statesmen of the South Douglas made a speaking tour through that region. In a speech at Memphis, Tenn., in December, 1858, he declared:

The Almighty has drawn a line on this continent on one side of which the soil must be cultivated by slave labor; on the other, by white labor. That line does not run

inflexibly along the parallel of the Missouri Compromise, but meanders through the border States and Territories where the self-interest of the inhabitants forms the natural means for its determination.

On March 1, 1859, Lincoln replied to this theory at Chicago.

Once we come to acknowledge that it is the law of the Eternal Being for slavery to exist on one side of such a line, have we any sure ground to object to slaves being admitted on the other side? Once admit that a man rightfully holds another man as property on one side, you must admit that, when it suits his convenience, he has the same right to hold his property on the other side. Step by step, first south of the Judge's moral climate line in the States and Territories, and then in all the States, he would lead us inevitably to the nationalization of slavery.

Referring to the suggestion of some of the Republican leaders that the party should support Senator Douglas in his contest with the Administration, Lincoln said:

Our only serious danger is that we shall be led upon this ground of Judge Douglas on the delusive assumption that it is a good way of whipping our opponents, when in fact it leads straight to final surrender.

CHAPTER XIII

THE MORALITY OF SLAVERY

[The Issue in the Presidential Contest of 1860]

Raid on Harpers Ferry by John Brown (1859)—His Abolition Principles—Meetings in the North on the Day of his Execution—Address of Charles O'Conor, Esq., of New York City, Defining the Issue between North and South as the Morality of Slavery, and Contending that Slavery is Right—Debate in the Senate on Investigating the Brown Raid and a Pro-Slavery Raid in 1855 on the Liberty [Mo.] Arsenal: in Favor of the Latter Investigation, Lyman Trumbull [Ill.], Henry Wilson [Mass.], John P. Hale [N. H.]; Opposed, James M. Mason [Va.], Albert G. Brown [Miss.], Alfred Iverson [Ga.]—Sketches of Trumbull, Wilson, and Brown—Futile Attempt of John J. Crittenden [Ky.] as a Peacemaker—Contest over Speaker of the House: John Sherman [O.] Forced to Withdraw because of his Endorsement of Hinton R. Helper's *The Impending Crisis*—The Presidential Campaign of 1860—Debate on Platform in the Charleston Democratic Convention between William L. Yancey [Ala.] and George E. Pugh [O.]—Sketches of the Debaters—Division of the Democratic Party over Popular Sovereignty—Constitutional Union Party Nominates for President John Bell [Tenn.] and for Vice-President Edward Everett [Mass.]—Sketches of Nominees—Grooming of Abraham Lincoln as the "Dark Horse" of the Republicans—His Speech at Cooper Union, New York City, on "Slavery as the Fathers Viewed It"—His Peroration on the Immorality of Slavery—He is Nominated for President—Hannibal Hamlin [Me.] is Selected as his Running Mate—Sketch of Hamlin—The Republican Platform—Northern Democrats Nominate Stephen A. Douglas [Ill.] for President, and Herschel V. Johnson [Ga.] for Vice-President—Sketch of Johnson—Southern Democrats Nominate John C. Breckinridge [Ky.] for President, and Joseph Lane [Ore.] for Vice-President—Sketches of Nominees—Republican Victory.

EVERY great political movement is in form as well as in nature an "argument." In the beginning general principles, "postulates," are laid down. Then these

principles are applied, pro and con, to particular issues which arise in the history of the country. Finally, when all the imaginable arguments have been thoroughly thrashed out in relation to events which the controversy has guided, and even has created, tending to a definite conclusion which is now seen to be inevitable, the movement assumes the character of an "exordium"—an appeal to the conscience, emotions, and will, rather than to the intellect. Of this the great anti-slavery movement is a striking example. The reader of the early debates on the Slave Trade, if he has at all a penetrating mind, will have observed that all the fundamental principles of the subject were there stated, and generally applied, not only to the issue in hand, but also to those which the prescient speakers foretold would arise in connection with slavery, such as Abolition of Slavery in the Federal District and the Territories; Abolition in the States; and Secession. The argument proper began with the Missouri Compromise, the first definite proposal of a practical principle of continuing the nation in the Union under the Constitution by preserving slavery as guaranteed by this instrument, yet limiting its extension in order to prevent the dissolution of the Republic. It was not foreseen, except by a few extremists on either side, that this bargain would not be kept, in fact, could not be kept, but would be violated under the stress of such opposing propositions as the Wilmot Proviso and the full recognition of the Right of Property in Man. With the Repeal of the Missouri Compromise came the necessity of establishing some new principle as to slavery if the Union were to be preserved. That of Popular Sovereignty was presented, and the argument continued, the opponents, now in two camps, them-

selves antagonistic to each other, contending as before, the one for prohibition of slavery in the Territories, the other for its admission there, and both denying the people of the Territories a voice in the matter. Victory for the slave faction in the opposition to Popular Sovereignty was obtained over the anti-slave faction by the Dred Scott decision of the Supreme Court, and, enheartened by its triumph, the slave party set out to conquer the Popular Sovereignty party. As has been anticipated, this led to the destruction not only of the principle of the opponent, but of slavery itself.

At the point we have reached in our discussion of the slavery question the triumph of the anti-slavery party in the coming Presidential election was foreseen by all but the blinded Democratic partisans. It was now time for the exordium of the movement, the appeal by the Republican leaders to their followers to make the victory overwhelming and decisive; by the statesmen of the slave States to preserve "Southern rights" at all costs, even that of participating in the benefits of the Union; and by Douglas and his fellows to maintain their principle in order that, later, when, as they expected, Republican victory would result in disaster to the Union, they might be swept into power by the people to redeem the country. Arguments addressed to the intellect were laid aside. Decision on the question was laid before that supreme bench of appeal, the Court of Conscience, the heart and soul of the people. The issue was not, to what extent is slavery constitutional? but, is it morally right or wrong?

To bring this issue concretely before the Court of Conscience a case was needed. This was supplied by an Abolitionist fanatic, who offered himself as a martyr to afford an extreme test of the principle. It applied

in every particular to the morality of slavery as the Dred Scott case had done to the constitutionality of the institution.

The Test Case of John Brown.¹ John Brown, the leader of the militant free-State men in the Kansas troubles, had fled the Territory when a reward for his arrest was offered by Governor Robert M. Stewart of Missouri and President Buchanan. Taking with him seven men, three of whom were slaves, and their families, he left Lawrence for the East in January, 1859. Pursued by forty-two armed and mounted pro-slavery men, he turned upon them and put them to flight, capturing four of them, whom he released after five days during which he compelled them to pray night and morning. Brown was joined shortly after this "Battle of the Spurs" as the encounter was called, by his lieutenant, J. H. Kagi, with forty mounted men. Escorted by seventeen of these to Nebraska City, he crossed into Iowa, and thence proceeded to Detroit, whence he crossed into Canada to Chatham. Here the negroes of his party established themselves as free laborers in a colony of Abolitionists and liberated slaves. On May 8, 1859, Brown gathered in a negro church a company of the colonists, white and black, who adopted a "Provisional Constitution and Ordinances for the People of the United States," the preamble of which resolved:

Whereas, Slavery . . . is none other than the most barbarous, unprovoked, and unjustifiable war of one portion of the citizens of the United States against another portion, . . . in violation of the eternal and self-evident truths set forth in our Declaration of Independence:

¹ For an admirable account of this, both from a human and a legal point of view, see "*The Commonwealth vs. Brown*," chapter three in *Decisive Battles of the Law*, by Frederick Trevor Hill, Esq.

Therefore, we, the citizens of the United States, and the oppressed people, who, by a recent decision of the Supreme Court, are declared to have no rights which the white man is bound to respect, together with all other people degraded by the laws thereof [*i.e.*, Indians, and other non-European races], do . . . ordain for ourselves the following Provisional Constitution and ordinances, the better to protect our people, property, lives, and liberties, and to govern our actions.

This constitution organized all men and women who accepted it into a band who, holding all property in common for the good of the cause, were authorized to confiscate every kind of property of slaveholders and their sympathizers, in the free as well as the slave States. The final article read:

The foregoing articles shall not be construed . . . to encourage the overthrow of any State government or the Federal government, and they look to no dissolution of the Union, but simply to amendment and repeal; and our flag shall be the same that our fathers fought under in the Revolution.

John Brown was chosen Commander-in-Chief; J. H. Kagi, Secretary of War; Owen Brown (son of John), Treasurer; and Richard Realf (who was a man of literary attainments, writing poetry of a high lyric order), Secretary of State.

Brown then went to the East, and contracted for one thousand pikes in Connecticut. On June 30, he and two of his sons turned up in the neighborhood of Harpers Ferry, Va., in the guise of wool-growers from western New York prospecting for a farm in a milder climate. Now Harpers Ferry was the seat of a Federal armory. Finally the Browns rented a large farm with three

houses located six miles from the armory. From time to time others, men and women, joined them, but, as they paid cash for everything, they were not regarded with suspicion. The men seemed to spend most of their time in hunting, although it was remarked afterwards that they returned from these excursions with no game. Really they were spying out the country by day, and bringing in arms and ammunition by night.

On Sunday evening, October 16, John Brown and his men, twenty-three in number, seized the armory and railroad bridge over the Potomac. Visiting the houses of Col. John A. Washington, proprietor of Mount Vernon, and a Mr. Alstadt in the vicinity, they took these gentlemen, after informing their astonished slaves that they were free, and put them in the armory. Other citizens were captured and confined in the same place. In the morning the village was completely dominated by armed sentinels, who answered the question by what authority they had seized civil and national property with the phrase: "By the authority of God Almighty!" —which is reminiscent of the answer made by Ethan Allen at Ticonderoga in the Revolution.

The trains which were turned back at the bridge bore the news to nearby telegraph stations, and forces of Virginia militia were soon on their way to the seat of insurrection. Brown's first plan was to escape to the mountains with the arms and ammunition of the armory, but he later decided to make a stand at Harper's Ferry, trusting that the slaves would rise and flock to his standard. But not a negro joined him.

The armory was taken by a company of United States marines under Col. Robert E. Lee on Monday, October 17, at 7 P.M., after a stubborn resistance by the Abolitionists, all but four of whom, including

Brown's two sons, were killed. Brown was knocked down with a saber blow in his face, and twice run through the body with a bayonet. He and the other three prisoners were taken to Charlestown, the county-seat, where they were quickly tried, and sentenced to be hanged. When asked if he had anything to say why sentence should not be passed on him, Brown replied:

I deny everything but what I have all along admitted—the design on my part to free the slaves. . . . I never did intend murder, or treason, or the destruction of property, or to excite or incite slaves to rebellion or to make insurrection.

Had I so interfered in behalf of the rich, the powerful, the intelligent . . . every man in this court would have deemed it an act worthy of reward rather than punishment. . . . I am yet too young¹ to understand that God is any respecter of persons. I believe that to have interfered as I have done . . . in behalf of His despised poor was not wrong, but right. Now, if it is deemed necessary that I should forfeit my life for the furtherance of the ends of justice,² and mingle my blood further with the blood of my children, and with the blood of millions in this slave country whose rights are disregarded by wicked, cruel, and unjust enactments, I submit: so let it be done.

I feel entirely satisfied with the treatment I have received on my trial. Considering all the circumstances, it has been more generous than I expected.

Brown besought his wife not to visit him before his execution, but she nevertheless came to his prison, and took supper with him a short time before his death.

¹ Brown was fifty-nine years old.

² The soldiers of the Union marched to the front in the following Civil War singing:

"John Brown's body lies a mouldering in the grave
But his soul goes marching on!"

The clergy of the neighborhood tendered him the solace of religion, but he firmly, though civilly, declined their ministrations, since he could not recognize anyone who justified slavery as a servant of the God he worshiped. To one of them, who sought to reconcile slavery with Christianity, he said:

"My dear sir, you will have to learn the A B C's in the lesson of Christianity, as I find you entirely ignorant of the meaning of the word. I, of course, respect you as a gentleman; but it is as a *heathen* gentleman."

On the day of his execution, December 2, Brown wrote as his last statement:

"I, John Brown, am now quite certain that the crimes of this guilty land will never be purged away but with blood."

He walked to the gallows between files of militia, three thousand of whom had been assembled to prevent any attempt at a rescue. As he came out of the jail, a negress, with her little child in her arms, stood by the door. Brown kissed the child, and, without a word, passed on. Arrived at the gallows he remarked the absence of civilians, and said, "They should be allowed to be present as well as others." His body was conveyed to his home in North Elba, N. Y., and there buried. In later years the grave was marked by a simple monument.

On the day of Brown's execution funeral bells were tolled and divine services were conducted in hundreds of Northern towns. On the other hand a number of "Union meetings" were held in the North shortly after the execution, in which the South was assured

that the conservative men of the North repudiated the act of Brown and abhorred the fanatical Abolition spirit of which it was a logical, though fearful, result. One such meeting was held in New York City at which the chief speaker was Charles O'Conor, a distinguished lawyer.¹ Sweeping aside all the familiar constitutional arguments, pro and con, on the slavery question, as Brown had done, he based the issue on the morality of slavery, on which, however, he took the opposite side from that of the Abolitionist whose acts in accord with his views had brought him to the gallows.

Is negro slavery unjust? That is the point to which this great argument, involving the fate of our Union, must now come. If slavery violates that great rule of human conduct, "Render to every man his due,"² it is unjust. If it violates the law of God, "Love thy neighbor as thyself," it is unjust. And if it could be maintained that negro slavery is thus in conflict with the law of nature and the law of God, I might be prepared to go with a distinguished man [Senator Seward] and say there is a "higher law" which compels us to disregard the Constitution and trample it under our feet as a wicked and unholy compact. . . .

I insist that negro slavery is not unjust. [Cries of "Bravo!"]. It is not only not unjust, but it is just, wise, and beneficent. [Applause mingled with hisses.] . . . We must no longer favor political leaders who talk about slavery being an evil; nor must we advance the indefensible doctrine that slavery is a thing which, although pernicious, is to be tolerated merely because we have made a bargain to tolerate it. . . . Yielding to the decree of nature and of

¹ O'Conor had been mayor of the city in 1855. He was the "straight" Democratic candidate for President in 1872 when most of that party joined with the "National Republicans" in supporting Horace Greeley.

² In Justinian's phrase, *suum cuique*.

sound philosophy, we must pronounce the institution just, beneficent, lawful, and proper.

The speaker did not even recoil from the final conclusion of his premises.

The South will be justified in seceding from the Union if the North continues to conduct itself in the selection of representatives in Congress as, perhaps from a certain degree of negligence, it has heretofore done.

On December 5, 1859, three days after the execution of Brown, Congress convened, and the first act of the Senate was, on motion of James M. Mason [Va.], to appoint a committee to investigate the insurrection at Harper's Ferry, in order to find if there was an organized effort behind it on the part of leaders of the Abolition party. In speaking on the motion the Northern Senators condemned the act of Brown, and declared that the insurrection had received no countenance nor support from any considerable number of persons or people of prominence. They therefore welcomed the investigation. However, they could not forbear calling the attention of the Southerners to the fact that no investigation had been made into a similar attack made upon a Federal arsenal at Liberty, Mo., in December, 1855, by a pro-slavery mob, which took therefrom arms and ammunition which were subsequently used against the free-State men of Kansas.¹

Senator John J. Crittenden [Ky.], in accordance with his well-known character as a peacemaker, sought to shut off the debate, which promised to become one of the most acrimonious in the annals of Congress, by

¹ For a report of the debate see *Great Debates in American History*, vol. v., p. 196.

proposing that both raids be investigated, and that the matter be let rest till they were reported upon.

His wise advice was not followed. Senator Henry Wilson [Mass.] felt called upon to explain that the public sympathy in the North with John Brown, which was bitterly commented upon by the Southern Senators, was elicited by his sincerity and courage, and not by his fanatical principles, and this specious excuse kindled anew the controversy.

Sketch of Wilson. Jeremiah Jones Colbaith was born at Farmington, N. H., in 1816, of Scotch-Irish ancestry. His father, a farm laborer, apprenticed him to a farmer till the age of twenty-one. During this period he attended school for a total of only twelve months, yet read more than a thousand books. When his service ended, he changed his name by legislative enactment to the simpler one of Henry Wilson, and, thus sealed to an absolutely independent life, set out on foot to look for employment, which he found with a shoemaker at Natick, Mass. In two years he earned enough money to return to New Hampshire and receive an education at various academies there. In 1835 he entered public life by speaking as an Abolitionist against the gag methods of the pro-slavery party. In 1838 he was compelled by lack of funds to return to Natick and resume shoemaking. In 1840 he spoke on the stump for the Whig candidate for President, William Henry Harrison, being introduced as the "Natick Cobbler." In the same year and the next he was elected to the Massachusetts House of Representatives. After a year's intermission he was advanced to the State Senate, where he served three years. In 1845 he was a moving spirit in organizing a convention in Massachusetts to oppose the admission of Texas as a

slave State, and, with John Greenleaf Whittier, carried to Congress a petition against such admission. He proposed and defended strong resolutions in the legislature against slavery, and in 1848 was a delegate to the Whig National Convention at Philadelphia, but withdrew from the Convention on its refusal to pass anti-slavery resolutions. Thereafter he acted with the Free-Soil party, establishing the Boston *Republican*, which he made the leading organ of the party, and acting as chairman of the Massachusetts Free-Soilers. In 1850 he resigned his editorship of the paper to reenter the State Senate, of which he became the president, retaining, however, his party chairmanship, in which capacity he formed the coalition with the Democrats by which Sumner was elected to the Senate. He presided over the National Free-Soil Convention at Pittsburg in 1852, and in the Presidential campaign which followed acted as chairman of the executive committee of the party.

He was a candidate for Congress at this election, and was defeated by only 93 votes, although there was an adverse majority to overcome of 7500. In 1853 he was a member of the Massachusetts constitutional convention, where he fought unsuccessfully to enroll negroes in the militia. In the same year he was defeated as the Free-Soil candidate for Governor. The Free-Soilers captured the Know-Nothing movement in Massachusetts in 1855, and he was carried on its tide of success into the United States Senate. However, when the American (Know-Nothing) party in the same year in national convention at Philadelphia adopted a platform that countenanced slavery, he withdrew with the other Abolition members, and, on the disruption that ensued in the party, entered into the building up of the

Republican party out of its anti-slavery fragment and the anti-slavery factions of the Whig and Democratic parties and the original Free-Soilers. He was a leading anti-slavery speaker in all the slavery debates in the Senate, and was challenged to a duel by Preston S. Brooks for denouncing Brooks's assault on Sumner as a "brutal, murderous, and cowardly act." He declined the challenge on principle, but announced that he believed in self-defense, and would practice it.

In March, 1859, he made a notable reply to the "mudsill" speech of Senator James H. Hammond [S. C.],¹ which was printed and widely circulated throughout the North.

During the Civil War he acted as chairman of the Senate Committee on Military Affairs, inducing Congress to enlist 500,000 volunteers to suppress the Rebellion at the beginning of hostilities, against the strong opposition of many equally patriotic but less far-seeing statesmen who thought secession could be stamped out with a far less number. He also showed executive capacity of a high order in organization and equipment of troops. In the recess of Congress he raised a Massachusetts regiment and marched at its head as colonel to the front, becoming an aide to General George B. McClellan. During the war as Senator he introduced and convincingly advocated the laws which abolished slavery in the District of Columbia, put an end to the "black codes" in the States, permitted enrollment of negro soldiers, etc. He also spoke at many places throughout the North in favor of a vigorous prosecution of the war and negro emancipation.

In the Reconstruction period after the war, while advocating full civil rights for the freedmen, he favored

¹ See Volume I., p. 388.

full amnesty and other measures for conciliating the white men who had been in rebellion. In 1872, on the reëlection of General Ulysses S. Grant [Ill.] as President, Wilson was chosen Vice-President. The same year he was stricken with paralysis, and died of apoplexy in 1875. He published a number of volumes of his speeches and several histories of anti-slavery, military, and reconstruction legislation, and partially completed an exhaustive work on the *Rise and Fall of the Slave Power in America* (1872-75). His *Life and Public Services* was written by his friend Thomas Russell and his pastor Elias Nason.

Says *Appleton's Cyclopædia of American Biography*:

"His speeches bore the impress of practical, clear-sighted statesmanship, and, if the grace of oratory and polished diction was wanting, they always commanded attention and respect. . . . Strong in his convictions, he was fearless in their expression, but he was scrupulously careful in his statements, and the facts he adduced were never successfully disputed."

In his speech on the John Brown affair Senator Wilson, not content with defending the North for its sympathy with the Abolitionist, went further and aroused the burning resentment of the Southern Senators by charging that Governor Henry A. Wise, of Virginia, had tried to gain a partisan advantage out of the matter by unjustly charging, in a message to the legislature, that the Republican party was responsible for John Brown's act. Senator Albert G. Brown [Miss.]¹

¹ Senator Brown was a lawyer who had been a Representative in Congress from 1839 to 1841; Governor of Mississippi from 1844 to 1848; a Representative again from 1848 to 1853, when he entered the Senate. He resigned from the Senate in 1861 when his State seceded. He was a powerful and frequent debater, taking an extreme position wherever Southern rights were concerned.

was aroused by these remarks to charge that Wilson had been present at a large "John Brown meeting" in his home town of Natick, Mass., and that he had been silent when the meeting passed a resolution that:

Whereas, resistance to tyrants is obedience to God, it is the right and duty of the slaves to resist their masters, and of the people of the North to incite them to resistance, and to aid them in it.

Senator Wilson replied that the meeting referred to had been expressly called to express dissent to Unionist views he had presented in a speech, and that the resolution passed was offered by a visiting "Garrison Abolitionist," who was a "profound disunionist and a no-government man, and who made a non-resistant speech in favor of resistance" [Laughter], explaining how emancipation could be accomplished without bloodshed.

Only fifteen or twenty people out of the seven hundred present voted for the resolution. The rest, including myself, took no part in the discussion or voting, since the Abolitionists had got up the meeting and paid for the hall. This was in accord with the practice in my part of the country, where we believe in the absolute right of free expression of opinion. The postmaster, who is as "sound" on the slavery question as the Senator from Mississippi, was there, and said nothing. I wish the people of other sections of the country would thus cherish the sacred right of free discussion.

Senator Brown professed himself satisfied with the explanation, though later he returned to the charge. Senator Mason, however, rose to attack Wilson for his charge against Governor Wise, wilfully choosing to regard it as an indictment of that executive's conduct

in suppressing John Brown's insurrection and bringing him to justice, as well as a criticism of his partisan utterance to the legislature. On the latter point he claimed that Brown must have had wealthy backers in his enterprise.

I know nothing about the man except the public notoriety he has obtained as a ruffian and a robber, but it is part of his history that he has been a vagrant for years; that he had no resources of his own, as shown by his will, but that, nevertheless, he brought to Harpers Ferry a large sum of money for the purposes of this insurrection. We want to know where he got that money. We want to get at the thousand rills which go to make up public sentiment, and which contributed to the ruffian resources sufficient to arm two thousand slaves.

Senator Alfred Iverson refused to accept Senator Wilson's explanation that the sympathy in the North expressed for Brown was due only to his courage.

Bravery and fortitude are often exhibited by men on the gallows. No; it cannot be disguised that the Northern heart sympathizes with Brown because he died in the cause of what the North calls liberty. The Senate of Massachusetts voted on adjourning on the day of Brown's execution in his honor, and the motion was lost by only three votes. The New York *Tribune* is the acknowledged organ of the Republican party. Has it not expressed sympathy for Brown? Has it or any other leading Republican paper condemned his act?

Sir, the tone of Republican sentiment throughout the whole North is sympathy for John Brown, and his failure to accomplish that which, had he succeeded, would have rent this Union asunder. Senators on this floor may disclaim as much as they please, but their acts speak louder than words.

Here the speaker referred to the candidacy for Speaker of the House of John Sherman [O.], who had endorsed Hinton R. Helper's "inflammatory" anti-slavery book on *The Impending Crisis*.¹ The Republicans held a bare majority in the House for the first time, with a number of weak-kneed members on the slavery question. Owing to the strenuous opposition of Southern Representatives, which they manifested in a fiery debate, the candidacy of Sherman (who as a leading member of the Kansas investigating committee had also offended the South in staunchly upholding the rights of the free-State men) was withdrawn, and William Pennington [N J.], a conservative Republican, was elected.

Senator Iverson continued:

The truth is that it is the settled intention of the Republican party to break down the institution of slavery by fair means or foul. If they cannot accomplish it by appealing

¹ This was not at all "inflammatory" in rhetoric, being a purely economic treatise showing by elaborate statistics that, due to slavery, the wages of free white labor in the South were reduced to one half those of laborers in the North; that non-slaveholders were almost wholly deprived of political power, State and national, in the South; and that education was confined to the children of the slaveholding planters. There was almost nothing in it about the effects of slavery on the negroes. Yet the Southern statesmen had somehow gained the impression that it incited the slaves to insurrection. The enterprising publisher had secured the endorsement of the book by prominent Northern statesmen, who gave this without reading the work, the request being the first recorded instance of what is now a common "publicity scheme" for new books. So these men, too, were equally ignorant of the contents of the work, and made haste to extenuate and apologize for their endorsement when assailed by the excited Southerners. The debate which ensued is probably the most remarkable example in all forensic history of heated argument over a subject in which facts having no existence were assumed on the one side and admitted on the other wholly without investigation.

to the slaveholders themselves, they mean to do so by appealing to the slaves.

But, sir, the South will be able to take care of herself as did Virginia. In the pride and power of her sovereignty the "Old Dominion" spurned all assistance and stands to-day vindicated as a sovereign State. We are all able to protect ourselves, whatever your political course may be against the Southern States, and we intend to do so to the last extremity, even at the sacrifice of the Union, which you all pretend so much to revere.

Senator Iverson included the Douglas Democrats in his indictment of the North.

I am afraid that too many of the Democratic party of the Northern States are going over to the Black Republicans, because these have exhibited more zeal and determination in the war against slavery than the Democratic party itself has. I wish the Democratic party was purer and better than it is. I am afraid that it is becoming, if not corrupt, at least corruptible.

Senator John P. Hale [N. H.] commented upon this confession:

I for one freely forgive the Senator for all the injustice he did the Republicans for the little modicum of justice which he did the Democrats. [Laughter.]

An amendment offered by Senator Lyman Trumbull [Ill.]¹ to investigate also the raid on the Liberty [Mo.]

¹ Trumbull was the grandson of Benjamin Trumbull, an early historian of the United States and Connecticut. Lyman was born in Colchester, Ct., in 1813. He began to teach at the age of sixteen, and at twenty was at the head of an academy in Georgia, where he studied law. He removed to Belleville, Ill., where he practiced his profession until 1841, when he was elected Secretary of State of Illinois. In 1848 he was advanced to the State Supreme Court, and in 1854 he was elected to the United States Senate. Up to this time a Democrat, he now opposed the

arsenal was rejected, 22 yeas to 32 nays, and the original motion to investigate the Harpers Ferry raid was passed unanimously. Nothing came of the investigation, since no Republican "backers" of John Brown could be discovered. Indeed it is claimed that the money he had received had been largely contributed by the Abolition colonists, white and black, of Chatham in Canada West.

The Presidential Contest of 1860. On April 23, 1860, the National Democratic Convention met at Charleston, S. C. The Southern element early showed its power; Caleb Cushing [Mass.] who, as Attorney-General under President Pierce had declared the Missouri Compromise unconstitutional, was elected chairman, and the majority of the committee on platform reported a resolution inspired by William L. Yancey [Ala.],¹ repudiating Senator Douglas's Freeport Doctrine of "unfriendly legislation" toward slavery, and proposing to establish the Dred Scott decision by positive Federal enactments. The minority of the committee, of the Douglas element, reported in favor of simply reaffirming the platform of 1856.

stand of his party and his colleague, Senator Douglas, on the slavery question. He was an ardent supporter of Lincoln for the Presidency and during his administration, being one of the first to propose the Amendment to the Constitution abolishing slavery. He was one of the five Republican Senators who voted for the acquittal of President Johnson in the impeachment trial, and he thereafter acted with the Democratic party, being its candidate for Governor of Illinois in 1880. He died in 1896.

¹ Yancey had been a Representative in Congress from 1844 to 1846. He was an early and ardent secessionist. In a letter to a Mr. Slaughter, on June 15, 1858, he proposed to organize, as the Revolutionary fathers had done, "committees of safety" all over the cotton States, in order to "fire the Southern heart, instruct the Southern mind, give courage to each other, and, at the proper moment, by one organized, concerted action, precipitate the cotton States into a revolution."

In the debate on platform upon the floor of the convention, Mr. Yancey and other Southern delegates took the position that the election of Mr. Buchanan had been accomplished by a shuffling platform which was interpreted in one way in the South and in another in the North, and that the South would not stand for a repetition of this double dealing, but was determined to assert its constitutional right to carry its property into the Territories.

"If gentlemen of the North insist on a squatter sovereignty platform in face of its condemnation by the Supreme Court, it is you, and not we, who will be responsible for the dissolution of the Democratic party, and, indeed, of the Union itself, since it is the unity of the Democratic party that alone holds the North and South together."

To this Senator George E. Pugh [O.],¹ the ablest of Douglas's supporters, responded, charging the Southern Democrats with ingratitude to the Northern, who had sacrificed themselves for Southern rights, many of them, some of whom Pugh pointed out in the convention, having been thrown out of public life thereby.

"And now the very weakness thus produced is urged as a reason why the North should have no weight in forming the platform!

¹ George Ellis Pugh was born in Cincinnati, O., in 1822. Upon his graduation at Miami University in 1840, he engaged in the practice of law. He served as captain in the Mexican War. In 1848-49, he was a member of the Ohio assembly, and in 1851 was appointed Attorney-General of the State. He was elected as a Democrat to the United States Senate in 1855, where he was placed on the Judiciary Committee. His term expired in 1861. He was counsel for ex-Representative Clement L. Vallandigham when that ardent State-rights Democrat was imprisoned by General Ambrose E. Burnside, military commander in Ohio, for inciting resistance to the draft. He died in 1876.

"The Democracy of the North are willing to stand by the old landmarks—to reaffirm the old faith. They will deeply regret to part with their Southern brethren. But if the gentlemen of the South can abide with us only on the terms they now propound, *they must go . . .* The Northern Democrats are not children . . . to be moved at the beck and bidding of the South. Because we are in a minority on account of our fidelity to our constitutional obligations, we are told, in effect, that we must put our hands on our mouths and our mouths in the dust.^x Gentlemen, you mistake us; *we will not do it.*"

On April 30, by a vote of 165 to 138, the convention adopted the minority report. Thereupon the delegations from Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas, and all but two delegates from Delaware and Louisiana each, withdrew from the convention.

It was then decided by Caleb Cushing, the chairman, that it was both logical and necessary, in order to make the nominations of the convention legal beyond any question, that the remaining delegates elect the nominees for President and Vice-President by a two-thirds vote of all the delegates, including those who had withdrawn. This meant that the votes of 202 out of the 252 delegates present were required to elect. After fifty-seven fruitless ballots, in which Senator Douglas achieved a maximum vote of 152½, the convention, on May 23, adjourned to meet at Baltimore, Md., on June 18, having previously ordered the States with seceding delegates to fill the vacancies.

In the meantime the seceders held in Charleston a

^x An expression first used by Josiah Quincy, 2d. See Volume I., p. 61.

convention of their own, which adjourned to meet at Richmond, Va., on June 12.

It was a foregone conclusion that Senator Stephen A. Douglas [Ill.] would be the nominee of the Baltimore Convention, and that another candidate would be the nominee of the Richmond Convention on the platform presented by the majority of the resolutions committee of the Charleston Convention before the division.

On May 9, the Constitutional Union party, composed largely of the supporters of Millard Fillmore in 1856, met at Baltimore, and nominated John Bell [Tenn.]¹ for President, and Edward Everett [Mass.]² for Vice-President, on a platform which declared:

"That it was both the part of patriotism and of duty to recognize no political principle other than the Constitution of the country, the Union of the States, and the enforcement of the laws."

It was generally recognized that the new party would cut a small figure in the election. Thaddeus

¹ Bell, born in 1797, was a lawyer, who, after service in the Tennessee Senate, had been a Representative in Congress (1827-41), serving as Speaker in 1834. He was a founder of the Whig party, and advocated abolition of slavery in the District of Columbia. In 1841 he was Secretary of War under President Harrison, and, with other members of the Cabinet, resigned when President Tyler abandoned Whig policies. He was United States Senator from 1847 to 1859. When secession from the Union was first proposed he opposed participation in it by his State, but afterwards supported this. He died in 1869.

² Everett, born in 1794, had been a Representative in Congress from 1825 to 1835; Governor of Massachusetts from 1835 to 1839; minister to Great Britain from 1841 to 1845; Secretary of State under President Fillmore in 1852; and Senator from 1853 to 1854. He supported Lincoln's administration, and was the "orator of the day" (but not of all time) at the dedication of the Gettysburg National Cemetery on November 19, 1863, when Lincoln made the shorter, but more memorable, address. He was accounted the most "classic" orator of his generation.

Stevens [Pa.] wittily characterized the convention as "a family party, and all there." However, events so shaped themselves that, with less than half the popular votes of the Douglas ticket, the Bell-Everett ticket secured more than three times the number of the Douglas electoral votes.

It was generally expected that Senator William H. Seward [N. Y.] would be the Presidential nominee of the Republican Convention. However, there was a growing desire in the Republican party, even in Seward's own State, to select a candidate who would not be handicapped by the antagonism which the promulgator of the "higher law" had aroused among the conservative element in the North.

Among the Presidential "dark horses" there began to loom up that far-seeing and self-sacrificing Illinois lawyer who had divided the Democratic party by forcing Douglas to declare his Freeport Doctrine. Therefore, when the Republican leaders of New York City learned that Abraham Lincoln had accepted an invitation to deliver an address in Plymouth Church, Brooklyn, of which the Abolitionist Henry Ward Beecher was pastor, they secured a change of the place of speaking to a less radical forum, Cooper Union in New York City, in order that the speaker might not endanger his Presidential prospects by being charged with Abolitionism.

Lincoln had chosen as his theme, "Slavery as the Fathers Viewed It," and, carefully preparing the speech by studying *Elliott's Debates*, he had written it out in full. When, on February 27, 1860, he stepped upon the large platform of Cooper Union, he found himself surrounded by every Republican leader of New York and Brooklyn, and facing an audience which filled the seats and aisles.

After a highly complimentary introduction by William Cullen Bryant, the editor of the New York *Evening Post*, he proceeded to deliver the most conclusive argument that had yet been presented against the thesis of the Democrats in general, and Senator Douglas in particular, that the founders of the nation intended that the Federal government should have no control over slavery in the Territories.

Says Henry C. Whitney, the friend and biographer of Lincoln, in his *Life of Lincoln*:

"This great speech is worthy of study. It was the last elaborate speech he ever made. In it he departed somewhat from his former style. The close political student will notice a system, formalism, precision, and rigidity of logic not apparent in former speeches; a terseness and vigor of language of greater emphasis than was before known; an absolute pruning of all redundancies, both in thought and expression. It was a massive structure of unhewn logic, without an interstice or flaw. Singular to say, the style, in some places, is almost precisely that of John C. Calhoun, yet the speech bears the same relation to the slavery issue . . . that Webster's reply to Hayne bore to 'the Constitution and the Union' in 1830. It was a dignified, stately, solemn declaration of the concrete principles of liberty as they then existed in the minds of the American people, and as they would be enforced by them at the first opportunity.

"It was a genuine revelation and surprise. The conservative *Evening Post* published the speech entire the next day by express order of its venerable editor . . . The entire press of the city eulogized it in the highest terms. On the last day of winter, in 1860, Mr. Lincoln awoke to find himself famous; on the first day of winter, in 1860, he was President-elect of this mighty nation."

At the conclusion of his speech Lincoln spoke on the moral side of the slavery question. The South, he

said, would ultimately demand the overthrow of our free State constitutions.

"Demanding what they [now] do, and for the reason they do, they can voluntarily stop nowhere short of this consummation. Holding . . . that slavery is morally right and socially elevating, they cannot cease to demand a full national recognition of it as a legal right and a social blessing.

"Nor can we justifiably withhold this on any ground save our conviction that slavery is wrong. If slavery is right, all words, acts, laws, and constitutions against it are themselves wrong, and should be silenced and swept away. . . . Their thinking it right, and our thinking it wrong, is the precise fact upon which depends the whole controversy. . . .

"Let us stand by our duty fearlessly and effectively. Let us be diverted by none of those sophistical contrivances wherewith we are so industriously plied and belabored—contrivances such as groping for some middle ground between the right and the wrong; vain as the search for a man who should be neither a living man nor a dead man; such as a policy of 'don't care' on a question about which all true men do care; such as Union appeals beseeching all true Union men to yield to Disunionists, reversing the divine rule, and calling, not the sinners, but the righteous to repentance; such as invocations to Washington, imploring men to unsay what Washington said and undo what Washington did.

"Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the government, nor of dungeons to ourselves. Let us have faith that right makes might; and in that faith let us to the end dare to do our duty as we understand it."

Abraham Lincoln and Senator Hannibal Hamlin [Me.]¹ were nominated for President and Vice-President

¹ Hamlin was a lawyer who had been Speaker of the Maine legislature; a Representative in Congress from 1843 to 1847; a Senator from 1848,

respectively by the Republican National Convention, which met in Chicago on May 16-18.

The platform endorsed the principles of the Declaration of Independence and their embodiment in the Constitution; it denounced the threats of disunion made by members of the Democracy, the armed invasion of any State or Territory, the Buchanan administration for its Lecompton policy, the Supreme Court for its Dred Scott decision; it declared that the normal condition of all the territory of the United States is that of freedom, and that this should be maintained; it branded the practical opening of the slave trade under Buchanan's administration as a crime against humanity; it held that events in Kansas had proved the doctrine of Popular Sovereignty a sham; and it declared for a protective tariff, the homestead law, internal improvements (especially a Pacific railroad to bind the Union together), and against discrimination against foreign-born citizens.

The adjourned Democratic Convention met, as ordered, at Baltimore on June 18. Several contesting delegations were presented. The Douglas ones were seated, whereupon the delegations from the Southern States and California and Oregon, as well as a part of the Massachusetts delegation, withdrew, leaving less than two thirds of the total delegates in the convention. Mr. Cushing resigned the chairmanship. Although the plan of nominating candidates by a two-thirds vote of all the delegates counting seceders, which Cushing had declared at Charleston to be the only proper method,

with the interval of 1857, when he was Governor of Maine. After the Civil War he reentered the Senate, serving from 1869 to 1881. He died in 1891 at the age of 82. His acts and speeches during his last term as Senator, especially in opposition to Chinese Exclusion, place him among the sterling statesmen of that body.

was impossible, the convention proceeded to vote. Douglas was unanimously declared to be the regular candidate of the Democratic party for President, and Herschel V. Johnson [Ga.]¹ its candidate for Vice-President. Of course the regularity of the nominations was denied by the anti-Douglas Democrats.

Douglas had demanded assertion of the principle of Popular Sovereignty in the Territories, and this was incorporated in the platform. An article was added declaring it the duty of citizens, legislators, and executive officers to submit to the Supreme Court's decisions, future as well as past, with respect to the authority of the people in the Territories over slavery. This declaration, though at variance with his doctrine of Popular Sovereignty, was accepted by Douglas, evidently as a sop to the South; he did not even attempt to harmonize it with the preceding declaration by any device similar to his Freeport Doctrine of "unfriendly legislation"—indeed, in this omission he seemed to abandon the Doctrine finally and absolutely.

The seceding Democratic delegates from this convention with those chosen by South Carolina and Florida for the Richmond Convention (which was not held) met in a convention of their own in Baltimore on June 28. They chose Cushing for their chairman;

¹ Herschel Vespaſian Johnson was a Senator from 1848 until 1849; a judge of the Superior Court of Georgia from 1849 to 1853, when he was elected Governor, an office which he held until 1857. He opposed secession until it was accomplished, and then accepted election to the Confederate Senate. In 1866 he was chosen to the United States Senate, but the seat was refused him on the ground that Georgia had not complied with all the terms of readmission to the Union. In 1873 he became a judge on the circuit court of his State, and held the office until his death in 1880. He held high rank as an orator, a constitutional lawyer, and a jurist.

unanimously adopted the Charleston platform presented by a majority of the committee on resolutions; and nominated Vice-President John C. Breckinridge [Ky.]¹ for President, and Joseph Lane [Ore.]² for Vice-President.

The influence of the Buchanan Administration was exercised in behalf of Breckinridge, and his electors were nominated in nearly every free State with the evident purpose of defeating Douglas, since it was impossible to win any Northern State for the Southern candidate. However, a coalition of the anti-Lincoln forces was made in several Northern States, although

¹ John Cabell Breckinridge was a grandson of John Breckinridge, the Republican leader of the Senate in Jefferson's administration. He was educated in the classics at Danville College, Ky., and in law at Transylvania University in his home town of Lexington. He was a major of volunteers in the Mexican War, and on his return was elected to the legislature. He was a Representative in Congress from 1851 to 1855. From 1857 to 1861 he was Vice-President. In March, 1861, he entered the Senate, but was expelled as a secessionist on December 4 of that year. While in the Senate he was an eloquent opponent of the Administration. In August, 1862, he entered the Confederate army as a major-general, and took part in the leading battles of the West from Shiloh to Chattanooga, and in the battle of Cold Harbor, Va., battles in the Shenandoah valley, and at Nashville, Tenn. He was the Confederate Secretary of War in 1865. With other Cabinet officers he fled to Europe at the close of the war. Returning in 1868 under amnesty, he refused to reenter politics and devoted himself to law. He was the youngest of our Vice-Presidents, being thirty-five years of age, the constitutional minimum, when elected to the office.

² Lane was a native of North Carolina, who, moving to Indiana, had served in the legislature there. Enlisting as a private in the Mexican War, he won the commission of major-general by gallantry in action. At the end of the war President Polk appointed him Governor of Oregon Territory, where he distinguished himself by suppressing hostile Indians. On the admission of Oregon into the Union he was chosen one of her Senators; Edward D. Baker, opposed to him in politics, being the other. His defeat for the Vice-Presidency ended his political career, and he died a poor, forgotten old man in a remote region of his State in 1881.

this precluded any assertion of principles by the Democratic campaign speakers, who were forced to confine themselves to personal abuse of "Old Abe," and to the prediction that disunion would follow his election. Nowhere in the South would the Breckinridge party combine with the Douglas party, and this refusal was certain to cause the election of the Bell ticket in a number of Southern States.

With all these odds against him Senator Douglas made a "whirlwind" campaign, speaking with remarkable force in nearly every free State and in many slave States. Lincoln remained at his home in Springfield, making no speeches, and writing little besides an autobiography,¹ copies of which, with his speeches on the slavery question, were widely circulated, as campaign documents, thus acquainting the people with his homely and simple and strong personality, and the clear honesty of his principles. Many of the Northern States held elections for State officers in September and October, and the almost unvarying success of the Republicans in these showed the certainty of Lincoln's election in November.

The election was held on the 6th of this month, and before midnight it was known that Abraham Lincoln was chosen chief magistrate of the nation, having received the votes of every free State except New Jersey (which gave him four of her seven votes). His total in the Electoral College was 180 votes, against 123, which were cast, 72 for Breckinridge, 39 (Virginia, Kentucky, and Tennessee) for Bell, and 12 (Missouri and 3 votes from New Jersey) for Douglas. Of the popular vote (4,645,390), however, Lincoln received only 1,857,610, which was 930,170 less than a majority;

¹ At the request of a friend, Jesse W. Fell.

Douglas received 1,291,574 votes, Breckinridge 850,-082 votes, and Bell 646,124 votes.¹

¹ Chapter xii. in Volume I. forms the historical climax of the subject of Slavery as well as of the doctrine of State Rights, and may be read here in the former connection.

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BURLINGTON, N. J.: capital of West Jersey, 37, 38.

BURNS, ANTHONY, fug. slave: b. Va. 1830, d. Can. 1862; case of, 272, 273.

BURNSIDE, AMBROSE EVERETT [R. I.]: b. Ind. 1824, d. 1881; tailor; educ. at West Point; 2nd lieut in Mex. War; in Indian wars; inventor breech-loading rifle; removes to R. I. to manufacture it; bankrupt; enters service of Ill. Cent. R. R. and pays his debts; col. 1st R. I. reg.; brig.-gen. vol. Aug. 1861; leads successful exped. against N. C. 1862; transferred to Army of Potomac; made its commander Nov. 10, 1862; defeated at Fredericksburg; transferred to Dept. of Ohio; adopts drastic measures against "Copperheads"; commands troops besieged in Knoxville; transferred to Army of Potomac; held by court of inquiry as answerable for failure in operations at Petersburg; resigned from army at close of war; gov. R. I. 1866-69; devoted himself to r. r. bus.; visits Europe during

Franco-Prussian war, and vainly attempts to negotiate peace; Sen. 1875-81; arrests Vallandigham, 370 f. n.

BURR, AARON [N. Y.]: b. 1756, d. 1836; contest for Pres. with Jefferson, 184; conspiracy of, 217.

BURRILL, JAMES [R. I.]: b. 1772, d. 1820; on slave trade, 122-124; sketch of, 122.

BURTON, HUTCHINGS G. [N. C.]: b. about 1785, d. 1836; lawyer and State legislator; att'y-gen. 1810-1816; M. C. 1819-24; gov. 1824-27; on Pinkney 145.

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BUTLER, ANDREW PICKENS [S. C.]: b. 1796, d. 1857; advocates pop. Sov. in Terr., 280, 294, 295; sketch of, 280; arraigned by Sumner, 303, 304, 306; defends P. S. Brooks for assault on Sumner, 308.

BUTLER, PIERCE [S. C.]: b. Ire. 1744, d. 1822; advocates slave trade, 97, 103; sketch of, 98; introd. fug. slave clause in Const., 103.

BUTLER, WILLIAM [S. C.]: b. Va. 1759, d. 1821; grad. S. C. Coll.; officer in Revol.; mem. conventions ratifying Const. and adopting State const.; State legislator; M. C. 1801-13; maj.-gen. in War of 1812; father of A. P. Butler, 280.

BUTLER, WILLIAM ORLANDO [Ky.]: b. 1793, d. 1880; enters army; brevetted major for gallantry in War of 1812; resigns comm'n 1817 and practices law; M. C. 1839-43; maj.-gen. volunteers in Mex. War; leads storming of Monterey; mem. Peace Cong. at outbreak of secession; defeated for V.-Pres., 227, 228.

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CABOT, JOHN [Ital. CABOTO, GIOVANNI]. Italian navigator: discovers for Eng. the North Atlan. coast, 2.

CALHOUN, JOHN CALDWELL [S. C.]: b. 1781, d. 1850; advocates excluding Abol. lit. from mails, 183, 184, 188; as Sec. of State makes abortive treaty *in re* Tex., 190; negotiates with Gt. Brit. *in re* Ore., 191, 192; on Ore. boundary, 197; "firebrand resolutions" of, 220-222; advocates extension of Const. to Terr., 229, 232; opposes Comp. of 1850, 235, 240-243; opposes abolition in D. C., 238; on Ordinance of 1787, 244; death of, 247; prophesies Webster's downfall, 264; compared as debater with Lincoln, 374.

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CAMBRELENG, CHURCHILL CALDOW [N. Y.]: b. N. C. 1786, d. 1862; opposes censure of J. Q. Adams, 176; sketch of, 176.

CAMPBELL, GEORGE WASHINGTON [Tenn.]: b. Scot. 1768, d. 1848; on slave trade, 122, 124; sketch of, 123.

CAMPBELL, JOHN ARCHIBALD [Ala.]: b. Ga. 1811, d. 1889; grad. Univ. Ga.; lawyer; removes to Ala.; State legislator; Assoc.-Just. U. S. Sup. Ct. 1853 to 1861, when he resigned; believed in right of, but opposed secession; Ass't Sec. War C. S. A.; peace comm'r 1865; imprisoned at close of war; discharged, he resumed law practice in New Orl.; concurs in Dred Scott opinion, 321.

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CARR, ROBERT, SIR, Eng. comm'r in Amer.: d. 1667; assists Nicolls in capt. of New Amsterdam, 1664; New Eng. save Me. resists his authority; occupies N. J., 33.

CARTERET, GEORGE, SIX: d. 1680; comptroller Eng. navy; lieut.-gov. of Jersey; made baronet for expelling Parl. forces; surrenders 1651 to Commonwealth; serves in Fr. navy; treas. Eng. navy 1661-67; dep'y treas. Ire. 1667; an orig. proprietor Carolina 1663; grantee of N. J., 33; sells East Jersey, 37.

CARTWRIGHT, PETER [ILL.]: b. Va. 1785, d. 1872; removed to Ky. 1790; dissolute in youth, but converted at camp-meeting in 1801; becomes Meth. preacher; removes to Ill. 1823; State legislator; anti-slavery Dem.; author of relig. pamphlets and auto-biog.; defeated by Lincoln for Cong. 213.

CASS, LEWIS [Mich.]: b. N. H. 1782, d. 1866; defeated for Pres. in 1852, 169, 227, 228; enunciates doct. of pop. Sov., 217; sketch of, 217-219.

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CATRON, JOHN [Tenn.]: b. Va. 1778, d. 1865; removed to Tenn. 1812; lawyer; soldier in War of 1812; State att'y; chosen supreme judge of State in 1824; chief-just. 1830-36; though he had been duellist he suppressed the practice; Assoc. Just. U. S. Sup. Ct. 1837-1865; Union Dem.; concurs mainly in Dred Scott decision, 321.

CENSORS: in Pa. and Va. gov'ts, 15.

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CHADWICK, JOHN WHITE [N. Y.]: Unitarian preacher; author; on Parker, 277.

CHAFFEE, CALVIN CLIFFORD [Mass.]: b. N. Y. 1811, d. 1896; physician; removed to Mass.; Know-Nothing; M. C. 1855-59; librarian House of Rep. 1859-61; in re Dred Scott case, 318.

CHALMERS, GEORGE, Brit. historian: b. Scot. 1742, d. 1825; sketch of, 24 f. n.; on settlement of Md., 25.

CHAMBERS, EZEKIEL FORMAN [Md.]: b. 1788, d. 1867; supports petition

of Coloniz. Soc., 157, 158; sketch of, 157 f. n.

CHANDLER, JOSEPH RIPLEY [Pa.]: b. Mass. 1792, d. 1880; sketch of, 74; supports Homestead bill, 89.

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CHARLESTOWN, VA.: trial of John Brown at, 357.

CHARTERS, COLONIAL: history of, 1-52.

CHASE, PHILANDER [O.]: b. N. H. 1775, d. 1852; grad. Dartmouth; Episc. min.; bishop of O. 1819-31; founded Kenyon College; missionary in Mich.; bishop of Ill. 1835-52; founded Jubilee Coll.; author; adopts his nephew S. P. Chase, 259.

CHASE, SALMON PORTLAND [O.]: b. N. H. 1808, d. 1873; estab. nat. bkg. system, 251; opposes Fug. Slave law, 258, 261, 262, 266; sketch of, 259, 260; arraigned by Clay, 265, 266; opposes repeal of Mo. Comp., 280, 283, 284, 286-290, 294.

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CLarendon, Edward Hyde, Earl of: b. 1608, d. 1674; premier; lord chancellor; impeached; retired to France; historian; grantee of Carolina, 46.

Clarendon, George William Frederick Villiers, Earl of: b. 1800, d. 1870; grad. Cambridge; entered into dipl. service; free trader; in Melbourne's cabinet; Lord Lieut. Ire.; Foreign Sec. 1852-58; leader in treaty of Paris terminating Crimean War; For. Sec. under Gladstone, 65-66, 68-70; negotiates *Alabama* treaty, 225; his *projet* of internat. treaty *in re* privateering, 314.

Clarke, John [R. I.]: b. Eng. 1609, d. 1676; author of works on liberty of conscience; a founder of R. I., 21, 22.

Clarkson, Thomas, Brit. philanthropist and abolitionist: b. 1760, d. 1846; author *History of Abolition of Slave Trade*; ref. to, 159 f. n.

CLAY COMPROMISES: see COMPROMISES OF 1850.

Clay, Henry [Ky.]: b. Va., 1777, d. 1852; in *re* Mo. Comp., 129, 134, 137, 154, 155; supports Coloniz. Soc. 157; attacked by Cushing, 172; Sec. of State, offers to buy Tex., 189; defeated for Pres., 193; reserved on annex. of Tex., 195; on Comp. of 1850, 235-237, 239, 240, 247, 249; heads manifesto against anti-slavery agit., 258; Lincoln visits, 258; death of, 258, 272, Lincoln's eulogy on, 258; upholds Fug. Slave act, 258, 261, 265, 266; S. P. Chase on, 261; arraigned by Rhett, 264; as orator, 281; Douglas on, 285; opposes non-intercourse with France, 313; attacks Pres. Tyler for his vetoes, 314; Lincoln on, 341; on "blowing out the moral lights," 342.

Clayton, John Middleton [Del.]: b. 1796, d. 1856; his treaty with Gt. Brit. in *re* Central Amer., iv., 314; Sec. of State, 234.

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Clinton, De Witt [N. Y.]: b. 1769, d. 1828; grad. Columbia; lawyer; Anti-Fed., opposes ratif. of Const.; State

legis.; supported national defense, sanitation, education, agriculture, industry, steam navigation, internal improvements, Erie Canal, relief of prisoners for debt, abolition of slavery; U. S. Sen. 1802; made powerful speech against war with Spain over La.; mayor N. Y. City 1802-07, 1809, 1811-15; State sen. 1805-11; lieut.-gov. 1811-13; nom. 1812 for Pres. by N. Y. Repubs; gov. 1817-22, 1824-28; use of patronage by, 184.

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Cobb, Howell [Ga.]: b. 1815, d. 1868; elected Speaker, 203.

Coddington, William [R. I.]: b. Eng. 1601, d. 1678; magistrate and merchant at Boston; mem. gov's council; defends Mrs. Hutchinson tried for heresy; a founder of R. I., 21, 22.

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Coke, Edward, Lord, Eng. jurist: b. 1552, d. 1633; educates Roger Williams, 19.

Colbaith, Jeremiah Jones: first name of Henry Wilson, *q. v.*

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CONKLING, ROSCOE [N. Y.]: b. 1829, d. 1888; lawyer; Repub.; M. C. 1859-63, 1865-67; Sen. 1867-81; resigned because control of patronage was denied him by Pres. Garfield; master of debate, 270.

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- CONSTITUTIONS, STATE: see separate States.
- CONSTITUTIONS, TERRITORIAL: see CONGRESS; TERRITORIES.
- CONTRACT, right of: see DARTMOUTH COLLEGE CASE.
- CONWAY, MONCURE DANIEL: b. Va. 1832, d. N. Y. 1907; grad. Dickinson Coll.; Methodist minister, grad. Harvard divinity sch.; becomes Abolitionist and Unitarian; lecturer, editor; pastor Unit. church in London 1863-84; author; on Phillips, 275; on Parker, 276.
- COOPER, JAMES FENIMORE [N. Y.]: b. N. J. 1789, d. 1851; novelist; his works dealing with Anti-rent agitation, 28 f. n.
- COOPER, UNION, N. Y. City: Lincoln's speech in, 373-375.
- "COPPERHEADS": name given to Northern opponents of Civil War, 169. See also BURNSIDE.
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- CORWIN, THOMAS [O.]: b. 1794, d. 1865; opposes Mex. War, 206-208; sketch of, 206, 207; opposes right of prop. in slave children, 222, 223.
- COSBY, WILLIAM: b. 1695, d. 1736; royal gov. N. Y., removes chief-justice, 32.
- COTTON: Amer. spinning machinery, 130; chief product of South, 135; mainstay of slavery, 244.
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- CRITTENDEN, JOHN JORDAN [Ky.]: b. 1787, d. 1863; on war-making power, 193; moves vote in Kan. on Lecompton const., 345; vainly acts as peacemaker in John Brown affair, 360.
- CROMWELL, OLIVER: Lord Protector of Eng.; Va. proclaims allegiance to, 6; annuls Coddington charter of R. I., 22; protects all relig. sects in Md. save Cath. and Unit., 25; threatens to seize New Netherlands, 29.
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- CUBA: proposed annex. of, 343 f. n.
- CURRENCY: see BANKING; MONEY.
- CURTIS, BENJAMIN ROBBINS, SR. [Mass.]: b. 1809, d. 1874; Assoc.-Just. Sup. Ct.; bro. of G. T. Curtis, 318; demurs to Dred Scott decision, 321, 323; edits *Sup. Ct. Records*, 325; sketch of, 326-328.
- CURTIS, BENJAMIN ROBBINS, JR.: biographer of preceding, 327.
- CURTIS, GEORGE TICKNOR: b. Mass., 1812, d. 1894; grad. Harvard; lawyer; U. S. comm'r at Boston, returns Sims fug. slave, to owner, and is denounced by Abolitionists; State legis.; removed to N. Y. 1862; legal author; biog. of Buchanan, 315; counsel of pros. in Dred Scott case, 318; biog. of B. R. Curtis, Sr., 327.
- CUSHING, CALEB [Mass.]: b. 1800, d. 1879; on right of petition, 172, 178, 179; sketch of, 172 f. n.; chm. Charles-ton Dem. Conv. (1860), 369, 371; resigns as chm. reg. Dem. Conv. at Balt. (1860), and becomes chm. rump conv., 376, 377.

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- DALLAS, GEORGE MIFFLIN [Pa.]: b. 1792, d. 1864; elected V.-Pres., 193; on Polk, 196.
- DANE, NATHAN [Ct.]: b. 1752, d. 1835; drafts Ordin. of 1797, 57; sketch of, 57 f. n.
- DANIEL, PETER VIVIAN [Va.]: b. 1784, d. 1860; grad. Princeton; lawyer; State legislator; lieut.-gov.; judge dist. ct.; Assoc.-Just. Sup. Ct. 1841-60; concurs in Dred Scott decision, 321.
- DARTMOUTH COLLEGE CASE: principle of, opposed by Taney, 325.
- DAVIS, GARRETT [Ky.]: b. 1801, d. 1872; lawyer, State legis.; Whig; M. C. 1847-51; Sen. 1861-72; speeches characterized by sarcasm, invective, and painstaking research; arraigns Cushing, 172 f. n.
- DAVIS, JEFFERSON [Miss.]: b. 1808, d. 1889; letter to, from ex-Pres. Pierce, 169; opposes Comp. of 1850, 235, 238, 240; defeated for gov. Miss., 235 f. n., 267; opposes Fug. Slave bill, 258, 266;
- Sec. of War, orders suppress. of insurrec. in Kan., 301; repudiates Freeport Doct., 348.
- DAWSON, JOHN LITTLETON [Pa.]: b. 1813, d. 1870; sketch of, 73; supports Homestead bill, 75, 76.
- DAYTON, ELIAS [N. J.]: b. 1737, d. 1807; veteran of French War and brig.-gen. in Revol.; M.C. 1787-88; father of J. Dayton, 99.
- DAYTON, JONATHAN [N. J.]: b. 1760, d. 1824; opposes slave repres., 97, 100; sketch of, 99.
- DAYTON, WILLIAM LEWIS [N. J.]: b. 1807, d. 1864; grad. Princeton; lawyer; State legisl.; Assoc.-Just. Sup. Ct. 1838-41; Sen. 1842-51; att'y-gen. N. J. 1857-61; min. to France 1861-64; leading Free Soil Whig on Ore., Tex., Mex. War, etc., questions; excelled in both oratory and argument; Repub. cand. for V.-Pres. in 1856, 310.
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- DICKINSON, JOHN [Pa.]: b. 1732, d. 1808; opposes slave trade, 97, 103.
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DOUGLASS, FREDERICK, negro orator: b. Md. 1817, d. 1895; slave, son of white father; escaped to Mass. 1838; laborer, aided in educ. by Garrison; anti-slavery lecturer in New Eng. and Gt. Brit.; 1847 onward ed. *The North Star* at Rochester, N. Y.; escapes arrest in re John Brown raid by flight to Europe; aided in enlisting negro sold. in Civil War; 1870 onward ed. *New National Era*, Wash. D. C.; ass't sec. San Domingo comm'n, 1871; in governing council D. C., 1871; U. S. marshal D. C., 1872-81; recorder deeds D. C. 1881-86; removed by Pres. Cleveland; wrote autobiographies; on Phillips, 275; as orator, 294.

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DURHAM, JOHN GEORGE LAMPTON, EARL OF: Brit. statesman: b. 1792, d. 1840; M. P. for Durham, Eng., 1813-28; made Baron in 1828; in Lord Grey's cabinet 1830-33; supported Reform Bill; made Earl 1833; Ambas. to Russia; Gov.-Gen. Canada 1838; Lords disapproved of his dictatorial, though statesmanlike, acts, and he returned to Eng. without recall; his famous report on Canada, written mainly by his sec. Chas. Buller, anticipated best features in pres. Can. const.; praises U. S. land system, 79, 80.

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- EVERETT, EDWARD [Mass.]: b. 1794, d. 1865; min. to Gt. Brit., *in re Creole*, 203; compared with Sumner, 271; cand. for V.-Pres., 372; sketch of, 372 f. n.
- EWING, THOMAS 1ST [O.]: b. Va. 1789, d. 1871; removed to present O. in 1792; grad. Ohio univ. at Athens; lawyer; Sen. 1831–37; advoc. all Whig policies, land reform, and abol. of slavery; Sec. Treas. 1841; first Sec. Interior, 1849; advoc. Pac. R. R.; Sen. 1850–51; advoc. reduction postage; Nestor of the Whigs, 213.
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- FESSENDEN, WILLIAM PITT [Me.]: b. N. H. 1806, d. 1869; grad. Bowdoin; eminent lawyer; State legisl.; anti-slavery Whig; M. C. 1841–43; Sen. 1854–64; founder Rep. party; chmn. Finance comm.; Sec. of Treas. 1864–65; Sen. 1865–69; wrote able report on reconstruction; opposed impeach. Pres. Johnson; opposed greenbacks; noted for quickness of retort; a master of debate, 270.
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- FOX, GEORGE:** b. 1624, d. 1691; shepherd; preacher; his followers called Quakers, from his command in 1650 to a judge to "quake at the word of the Lord"; in 1671 he visited Barbadoes, Md., N. J., N. Y., and New Eng.; preached in Holland and Germany; author religious books; converts Penn, 34, 36.
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- FRANCIS, PHILIP, SIR, Eng. polit. writer:** b. 1740, d. 1818; reputed author of letters of JUNIUS, q. v.
- FRANKLIN, BENJAMIN [Pa.]:** b. Mass., 1706, d. 1790; pacifies "Paxton Boys," 44, 45; pres. of Pa. Abol. Soc., 104, 105; master of diplomacy, 315.
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- FREILINGHUYSEN, THEODORE [N. J.]:** b. 1787, d. 1861; grad. Princeton; atty-gen. N. J. 1817-29; U. S. Sen. 1829-35; Whig; his plea for Indians procured him title of the "Christian Statesman"; mayor Newark 1837-38; pres. Amer. Bible Soc. 1846-61; pres. Rutgers coll. 1850-61; defeated for V.-Pres., 193.
- FRÉMONT, JOHN CHARLES [Cal.]:** b. Ga. 1813, d. N. Y. 1890; Repub. cand. for Pres. 1856, 310, 315, 326; sketch of, 311-313.
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- FULLER, THOMAS JAMES DUNCAN [Me.]:** b. 1808, d. 1876; sketch of, 73; opposes Homestead bill, 79-81.
- FULLER, TIMOTHY [Mass.]:** b. 1778, d. 1835; opposes slavery in Mo., 129, 136; sketch of, 130.

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- GADSDEN, JAMES [S. C.]:** b. 1788, d. 1858; grad. Yale; lieut.-gen. eng. in army; in War of 1812; aide of Gen. Jackson in Seminole War; planter in Fla.; pres. S. C. R. R.; min. to Mex. 1853; purchases strip of terr. in Ariz. and N. M., 215.
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- GEARY, JOHN WHITE [Pa.]:** civil eng. col. in Mex. War; first postm. and mayor San Francisco; leader in forming Cal. const.; retired to farm in Pa. brig.-gen. Civil War; gov. Pa. 1866-73; gov. Kan. Terr., 329.
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GEORGE, HENRY [N. Y.]: polit. economist: b. Pa. 1839; d. 1897; printer; journalist; cand. for mayor N. Y. city 1886, 1897; author *Progress and Poverty*, etc.; father of R. George, 161.

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GEYER, HENRY SHEFFIE [Mo.]: b. Md. 1790, d. 1859; lieut. in War of 1812; removed to St. Louis; lawyer; del. to first const. conv. Mo. 1820; Speaker legis.; codifies laws of State; U. S. Sen. 1851-57; counsel for defense in Dred Scott case, 318.

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GIDDINGS, JOSHUA REED [O.]: b. Pa. 1795, d. 1864; opposes Mex. War, 202; sketch of, 202-204; advocates Wilmot Proviso, 220; arraigns Pres. Fillmore, 256; manifesto by, against Kan.-Neb. bill, 283 *et seq.*

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GOODE, SAMUEL [Va.]: b. 1756, d. 1822; opposes receiving anti-slavery petitions, 121; sketch of, 121 f. n.

GORGES, FERNANDINO, SIR: b. 1565, d. 1647; accomplice of Essex in his conspiracy, he testifies against him; naval comm.; gov. of Plymouth, Eng.; friend of Raleigh; teaches Eng. to Indians bro't back by Raleigh, and, learning about Amer., founds Plymouth Co. to exploit it; fits out various unsuccessful exped. to New Eng.; settles Me., 16, 46.

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GRANT, ULYSSES SIMPSON [Ill.]: b. O. 1822, d. N. Y. 1885; grad. West Point; capt. in Mex. War; resigns comm'n in 1854; fails in bus. in St. Louis; clerk in father's store at Galena, Ill.; leading Northern gen. in Civil War; Sec. War *ad interim* 1867-68; 18th Pres., 1869-77; recalls R. Johnson, min. to Gt. Brit., 225; re-elected Pres., 364.

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GREENE, NATHANAEL [R. I.]: b. 1742, d. Ga. 1780; State legis.; student of mil. tactics; next in command to Washington in Rev.; removes to Ga. to live on estate given him by that State; of Quaker descent, 114.

GREEN MOUNTAIN BOYS: see ALLEN, ETHAN.

GRIER, ROBERT COOPER [Pa.]: b. 1794, d. 1870; grad. Dickinson coll.; teacher; lawyer; dist. judge; Assoc.-Just. U. S. Sup. Ct. 1846-70; originally a Fed.,

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GRUNDY, FELIX [Tenn.]: b. Va. 1777, d. 1840; law teacher of Polk, 193.

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HAMMOND, JAMES HENRY [S. C.]: b. 1807, d. 1864; his "mudsill" speech, 363.

HANNEGAN, EDWARD A. [Ind.]: d. 1859; demands "whole of Ore.," 196, 197; sketch of, 196 f. n.

HARDIN, BENJAMIN [Ky.]: b. Pa. 1784, d. 1852; advocates Mo. Comp., 148; sketch of, 148 f. n.

HARDIN, JOHN J. [Ill.]: b. Ky. 1810, killed at Buena Vista, 1847; grad. Transylvania Univ.; sets up law practice in Jacksonville, Ill.; State legis.; Whig; M. C. 1843-45; col. 1st Ill. reg. in Mex. War; defeated by Douglas for State Atty.-Gen., 198.

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HARRISON, WILLIAM HENRY [O.]: b. Va. 1773, d. 1841; remark of Tecumseh to, 85; elect. Pres., 123, 152, 195, 301; victory of, at the Thames, 218. See also ALLEN, WILLIAM.

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HAWTHORNE, NATHANIEL: b. Mass. 1804, d. N. H. 1864; grad. Bowdoin; novelist; in customs service; friend and biog. of Pierce, 168.

HAYNE, ROBERT YOUNG [S. C.]: b. 1791, d. 1839; on sale of pub. lands, 66; opposes Colon. Soc., 158; Webster's reply to, ref. to, 374.

HELPER, HINTON ROWAN, author: b. N. C. 1829, d. D. C. 1909; U. S. consul Buenos Aires 1861-67; author; committed suicide; his *Impending Crisis*, 367.

HEMPHILL, JOSEPH [Pa.]: b. 1770, d. 1842; opposes Mo. Comp., 148, 149; sketch of, 148 f. n.

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HENRY, PATRICK [Va.]: b. 1736, d. 1799; opposes stipends of Va. clergy, 8 f. n.; on J. Rutledge, Sr., 97, 98.

HERNDON, WILLIAM H. [Ill.]: law-partner Lincoln; on L's "House Divided" speech, 332.

HIGGINSON, THOMAS WENTWORTH [Mass.]: b. 1823, d. 1908; grad. Harvard; Cong. minister; Abolitionist; defeated as Free Soil cand. for Cong., 1850; leaves ministry for authorship; col. of negro troops in Civil War; wounded; State legis.; essayist and historian; on Sumner, 268; leads rescue party in Burns case, 272; on Phillips, 275.

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HILL, FREDERICK TREVOR [N. Y.]: lawyer and author: on John Brown, 354 f. n.

HOAR, GEORGE FRISBIE [Mass.]: b. 1826, d. 1904; grad. Harvard; lawyer; State legis.; Repub.; M. C. 1869-77; Sen. 1877-1904; Anti-Imperialist; on Filipino rights, 136 f. n.; son of Samuel Hoar, 246; on Sumner, 270.

HOAR, SAMUEL [Mass.]: b. 1788, d. 1856; mission of, to S. C., to stop imprisonment of negro sailors, 246; sketch of, 246 f. n.

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HOLSEY, HOPKINS [Ga.]: b. Va. 1799, d. 1859; lawyer; journalist; M. C. 1835-39; leads withdrawal of his deleg. from House, 182.

HOLST, VON, HERMANN EDUARD: b. Livonia 1841; d. 1904; educ. Dorpat and Heidelberg; taught at St. Petersburg; expelled for polit. pamphlet; book-editor N. Y. city; prof. hist. Strassburg and Freiburg; vice-pres. Baden Diet; head of dept. hist. Univ. of Chicago 1892-1900; chief work, *Const. Hist. U. S.*; on debate on Freeport Doct., 348 f. n.

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HONE, PHILIP [N. Y.]: b. 1781, d. 1851; merchant; a founder Mercantile Library, N. Y. city; mayor 1825-26;

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- HUDSON, HENRY, Eng. explorer in Dutch employ: explores Hudson River, 26.
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- HULL, WILLIAM: b. Ct. 1753, d. Mass. 1825; grad. Yale; lawyer; inspec.-gen. in Revol.; gallant soldier in many battles; maj.-gen. Mass. militia and State legis.; gov. Mich. Terr. 1805-12; commands west. army in War of 1812; surrenders Detroit; sentenced by court-martial to be shot; sentence never executed; exonerated by historians; Cass on the surrender, 217.
- HUMOR: of Corwin, 207; a Scotsman's sense of, 265; sense of, Sumner's, 269; Lincoln's burlesque of Douglas's pomposity, 336.
- HUNGARY: revolutionists in, sympathetic with, in U. S., 85 f. n.
- HUTCHINSON, MRS. ANNE MARBURY, religious teacher: b. Eng. 1590, d. Ct. 1643; emig. to Mass. 1634; attacked clergy, with result that soldiers refused to fight under chaplains against Pequods; expelled for heresy and sedition; settles first in R. I. and then in Ct., where she was murdered by Indians; a founder of R. I., 21.
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- State legis.; gov. Mich. Terr. 1805-12; commands west. army in War of 1812; surrenders Detroit; sentenced by court-martial to be shot; sentence never executed; exonerated by historians; Cass on the surrender, 217.
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- INGERSOLL, CHARLES JARED [Pa.]: b. 1782, d. 1862; introd. bill to annex Tex., 192; sketch of, 192 f. n.
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- IRVING, WASHINGTON [N. Y.]: b. 1783, d. 1850; hist. value of his *Knickerbocker Hist. of N. Y.*, 27 f. n.
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- IVERSON, ALFRED [Ga.]: b. 1798, d. 1873; replies to Seward's "Irrepressible Conflict" speech, 283 f. n.; on John Brown, 366-368.
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- JACKSON, ANDREW [Tenn.]: b. S. C. 1767, d. 1845; his relations with Benton, 61, 62; recommends Homestead law, 62, 63, 76; admin. of, pays off national debt, 78; controv. over his actions in Seminole War, 130, 131; opposes intern. improvements, 151, 168; increases power of Pres., 152; his war with the U. S. Bank, 152, 184, 194, 224, 226, 313, 324, 327; adv. excluding Abol. lit. from mails, 183; elect. Pres., 186, 194; patron saint of Dem., 191; friend of Polk, 194; on oath to obey Const., 306; farewell message of, 325; inauguates spoils system, 326.
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- JARVIS, LEONARD [Me.]: b. 1781, d. 1854; opposes recep. of abol. petitions, 164; sketch of, 164 f. n.
- JAY'S TREATY: see TREATIES.
- JEFFERSON, THOMAS [Va.]: b. 1743, d. 1826; solves prob. of sovereignty *in re* La. Purch., 3 f. n.; on restriction of land grants by Gt. Brit., 54; *in re* Northwest Terr., 56; opposes slavery, 96, 148, 200, 288; friend of Page, 106; opposed by W. L. Smith, 109; on miscegenation, 110; inaugurates negro colonization, 157; supported by J. Q. Adams 165; contests with Burr for Pres., 184; policy of, on Sedition Law, 257.
- JEFFREYS, GEORGE, BARON: b. 1648, d. 1689; Chief-Just. and Lord Chanc. of Eng., imprisoned and died in Tower of London; his "Bloody Assizes," 41.
- JOHNSON, ANDREW [Tenn.]: b. N. C. 1808, d. 1875; sketch of, 69-72; on Homestead bill, 72, 74, 90, 91; his fight as Pres. with Cong., 281; impeached, 326, 327, 369 f. n.
- JOHNSON, ARNOLD BURGES: author; on Sumner, 268.
- JOHNSON, HERSCHEL VESPASIAN [Ga.]: b. 1812, d. 1880; nom. for V.-Pres., 377; sketch of, 377 f. n.
- JOHNSON, REVERDY [Md.]: b. 1796, d. 1876; sketch of, 224, 225; defends Sup. Ct., 225, 226; Atty.-Gen., 234; counsel for defense in Dred Scott case, 318.
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- JOHNSTON, ALEXANDER [N. J.]: b. 1849, d. 1889; edit of *American Orations*, 143 f. n.
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- JULIAN, GEORGE WASHINGTON [Ind.]: b. 1817, d. 1899; lawyer; Free Sojourner; M. C. 1849-51; cand. for V.-Pres. 1852; a founder of Rep. party; M. C. 1861-71; prop. in 1868 Const. amend. to give women the vote; on Benton, 68.
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- KANSAS: adm. Union 1861; contest over, between free and slave interests, 74, 278-307, 315, 316, 329-331, 336, 341, 343, 346, 360, 367, 376.

- KEARNY, STEPHEN WATTS: b. N. J. 1794, d. Mo. 1848; as student at Columbia entered War of 1812; made captain for bravery; in reg. army; brig.-gen. June 1846; in Mex. War, took possess. of N. Mex. and Cal.; maj.-gen. Dec. 1846; gov. Cal. 1846-47; gov. Vera Cruz and City of Mex.; writer on milit. tactics; in conquest of Cal., 312.
- KEITT (pro. Kit), LAWRENCE MASSILLON [S. C.]: b. 1824, d. 1864; lawyer; M. C. 1853-60; M. C. and col. in C. S. A.; killed; accomplice in assault on Sumner, 308; reprimanded by House 309.
- KENT, JAMES [N. Y.]: b. 1763, d. 1847; grad. Yale; State legis.; defeated as Fed. cand. for Cong., prof. law Columbia; master in chancery; recorder N. Y. city; just. N. Y. sup. ct. 1798; made chief-just. 1804, and chancellor 1814; retired 1823; resumed law professorship at Columbia; retired 1825 to devote himself to legal authorship; his *Commentaries on Amer. Law*, a classic held by Assoc. Just. Story to excel Blackstone; radical views of, 185; opposes Taney's decisions, 325.
- KENTUCKY: land litigation in, 131; const. of 1849, 148 f. n.; loses many fugitive slaves, 257; poor whites of, 334; votes for Bell for Pres., 379. See also BRISCOE; MAYSVILLE.
- KIDNAPPING: capital crime in New Plymouth, 10.
- KIEFT, WILLIAM: gov. of New Netherland, 28, 29.
- KING, JOHN PENDLETON [Ga.]: b. Ky. 1799, d. 1888; lawyer; mem. Ga. const. conv. 1833; Jackson Dem.; U. S. Sen. 1833-37; resigned on acc't of criticism of his oppos. to Van Buren admin.; pres. Georgia R. R.; opposes exclusion of Abol. lit. from mails, 188.
- KING, RUFUS [Mass. and N. Y.]: b. Me. 1755, d. 1827; opposes slave repr., 97, 99, 100; on slave trade, 122, 124; opposes slavery in Mo., 143, 145, 185.
- KITCHELL, AARON [N. J.]: b. 1744, d. 1820; advoc. receip. of petit. against Fug. Slave law, 115, 119; sketch of, 115.
- KNOW-NOTHINGS: opposed by R. Johnson, 225; nom. Fillmore for Pres., 251; divide Whig party, 260; declare for pop. sov., 310; in Mass., captured by Free Soilers, 362; countenance slavery, 362.
- KOSSUTH, LOUIS: b. 1802, d. 1894; Hungarian revolutionist; U. S. sympathy with, 235 f. n.

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- LANE, JAMES HENRY [Ind. and Kan.]: b. Ind. 1814, d. Kan. 1866; lawyer; col. in Mex. War; lieut.-gov. Ind. 1849; Dem.; M. C. 1853-55; moved to Kan. Terr.; Rep.; mem. Topeka const. conv.; elect. Sen. in event of adm. of Kan.; pres. Leavenworth cons. conv. 1857; Sen. 1861-65; Free State leader, 300.
- LANE, JOSEPH [Ore.]: b. 1811, d. 1881; nom. for V.-Pres. on Southern Dem. ticket 1860, 378; sketch of, 378 f. n.
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- LAWRENCE, AMOS ADAMS [Mass.]: b. 1814, d. 1886; grad. Harvard; merchant; philanthropist; treas. of Emig. Aid Soc., 298.
- LAWRENCE, EUGENE [N. Y.]: author; on Sumner, 271.
- LEAVENWORTH, KAN.: pro-slavery mob in, 299; army post at, 300, 301.
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- LEE, RICHARD HENRY [Va.]: b. 1732, d. 1794; reforms finances, etc., of Va., 8; opposes slavery, 96.
- LEE, ROBERT EDWARD [Va.]: b. 1807, d. 1870; grad. West Point; chief eng. under Gen. Wool in Mex. War; as comm. West Point 1852-55 made gt. improvements; lieut.-col. on Mex. frontier 1855-59, 1860; C. S. A. comm. of Army of Va.; pres. Washington [and Lee] Coll. after war; captures John Brown, 356.
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- LIVERMORE, SAMUEL [N. H.]: b. Mass. 1732, d. 1803; grad. Princeton; colon. legis.; State att'y; M. C. 1780-82, 1789-93; pres. N. H. const. conv. 1791; Sen. 1793-1801; chief-just. N. H. (1782-89), 131.
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- LOVEJOY, ELIJAH PARISH [Ill.]: b. Me. 1802, d. 1837; grad. Waterville Coll.; teacher; editor; Pres. preacher; estab. relig. and Abol. paper, the *Observer*, in St. Louis; threats of mobbing cause him to remove it to Alton, Ill. 1836; there mobbed four times in the year, chiefly by Missourians; he was killed the fourth time; his murder, 274.
- LOVELACE, FRANCIS: b. 1630, d. 1709; roy. gov. N. Y., 30.
- LOWELL, JAMES RUSSELL [Mass.]: b. 1819, d. 1891; grad. Harvard; poet; essayist; Abolitionist; his *Biglow Papers* a satire on Mex. War; ed. *Pioneer* (1843) and *Atlantic Monthly* (1863-72); min. to Spain 1877-80, to Gt. Brit. 1880-85; his poetic tributes to Garrison, 161, 162; on Phillips, 273.
- LUNDY, BENJAMIN: b. N. J. 1789, d. Ill. 1839; Abolitionist; sketch of, 159; partner Garrison, 160.
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- being a "power to destroy"; ref. to, v.
- MCCULLOCH, HUGH [Ind.]: b. Me. 1808, d. 1855; banker Ft. Wayne, Ind.; pres. Bank of Ind. 1856-63; U. S. Comp. Curr. 1863-65; Sec. of Treas. 1865-69, 1884-85; writer on finance; on Sumner, 269.
- MCDUFFIE, GEORGE [S. C.]: b. Ga. 1788, d. 1851; on power to make war, 193; sketch of, 193 f. n.; praises Polk, 194.
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- MARCY, WILLIAM LEONARD [N. Y.]: b. Mass. 1786, d. 1857; grad. Brown; in War of 1812; editor; State comp. 1823; assoc.-just. State sup. ct. 1829-31; Jackson Dem.; U. S. Sen. 1831-32; gov. N. Y. 1833-39; comm'r Mex. claims 1839-42; Sec. War 1845-49; Sec. State 1853-57; cand. for Pres. nom. 1852, 169.
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- MONTGOMERY, WILLIAM [Pa.]: b. 1818, d. 1870; grad. from Washington Coll.; lawyer; Dem.; M. C. 1857–61; moves vote in Kan. on Lecompton const., 345.
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- MORRIS, GOUVERNEUR [N. Y.]: b. 1752, d. 1816; opposes slave repr., 97, 100, 103.
- MORRIS, LEWIS: b. N. Y. 1671, d. 1746; judge super. ct. N. J. 1692; legisl.; ch.-just. N. Y. and N. J.; acting gov. 1731; gov. 1731–46; removed as ch.-just. N. Y., 32.
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NELSON, SAMUEL [N. Y.]: b. 1792, d. 1873; grad. Middlebury; as del. to State cons. conv. of 1822 advoc. excision of prop. qual. in voting; circuit judge 1823-31; assoc.-just. N. Y. sup. ct. 1831-37; chief-just. 1837-45; Assoc.-Just. U. S. Sup. Ct. 1845-1872; in Civil War opposed encroachment of milit. on civ. power; on Alabama comm'n; his opinion in Dred Scott case, 318, 321.

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NICHOLSON, ALFRED OSBURNE POPE [Tenn.]: b. 1808, d. 1876; grad. Univ. of N. C.; lawyer; journalist; State legis.; Dem.; Sen. 1840-43, 1859-61; expelled for secession; chief-just. Tenn., 1870-76; letter of Cass to, on pop. sov., 217, 219.

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- SARGENT, NATHAN: b. Vt. 1794, d. D. C. 1875; county judge in Ala.; estab. Whig paper in Phila., 1830; Washington corresp. to *U. S. Gazette* under pen-name of "Oliver Old-school"; regist. U. S. Treas. 1851-53; comm'r customs 1861-67; wrote books on pub. men; on Pinkney, 144.
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- SCHOOLCRAFT, HENRY ROWE: b. N. Y. 1793, d. D. C. 1864; educ. at Middlebury and Union; chemist and mineralogist; made geol. exped. to Mo. and Ark. 1817-18; geol. of Cass's exped. to Lake Superior, etc.; Ind. ag't for Lake region; married educ. Ojibway; founded Mich. Hist. Soc. 1828; Terr. legis.; disc. source of Miss., 1832; negot. treaty with Ind. for cession of 16,000,000 acres on upper lakes; U. S. Sup't Ind. Affairs; N. Y. comm'r *in re* Iroquois 1845; appointed U. S. comm'r to secure ethn. information *in re* Indians, 1847; author of many Ind. ethnol. books; exped. under Cass, 218.
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- SERGEANT, JOHN [Pa.]: b. 1779, d. 1852; opposes Mo. Comp., 149; sketch of, 149 f. n.
- SEVIER, JOHN [Tenn.]: b. Va. 1745, d. 1815; removed to N. C. 1773; capt., militia in Gov. Dunmore's [Va.] war against Ind., 1773-74; dist. judge N. C. 1777-80; comm. at Kings Mountain 1780; Dem.; M. C. 1789-91; gen. N. C. militia; gov. Tenn. 1796-1801, 1803-09; M. C. 1811-15; comm'r on Ga.-Ala. boundary; gov. State of Franklin, 243 f. n.
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- SHAFTESBURY, ANTHONY ASHLEY-COOPER, EARL OF**, Eng. Lord Chancellor: b. 1621, d. 1683; patron of Locke, 47 f. n.
- SHANNON, WILSON [O.]**: b. 1802, d. 1877; grad. Athens; lawyer; gov. 1838-40, 1842-44; min. to Mex. 1844-45; Dem.; M. C. 1855-57; gov. Kan. Terr. 1855-56; gubernatorial contest with Corwin, 206; gov. Kan., 299-301, 329.
- SHAWNEE MISSION, KAN.**: pro-slavery cap., 299.
- SHERMAN, JOHN [O.]**: b. 1823, d. 1900; lawyer; Whig; Repub.; M. C. 1855-61; Sen. 1861-77; Sec. Treas. 1877-81; Sen. 1881-97; Sec. State 1897-98; defeated for Speaker, 367; mem. Kan. invest. comm., 367.
- SHERMAN, ROGER [Ct.]**: b. 1721, d. 1793; advoc. slave repr., 97, 100, 103; advoc. referring abol. petit., 104.
- SIDNEY, ALGERNON**, Eng. statesman: b. 1622, d. 1683; exec. for alleged complicit. in Rye House plot; champion of civil rights, 39; aids Penn, 40.
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- SITGREAVES, SAMUEL [Pa.]**: b. 1764, d. 1827; advoc. recep. of anti-slavery petit., 115, 117, 118; sketch of, 115.
- SKELTON, CHARLES [N. J.]**: b. Pa. 1806, d. 1879; sketch of, 75; supports Homestead bill, 81-83.
- SLADE, WILLIAM [Vt.]**: b. 1786, d. 1859; denounces slavery, 182; sketch of, 182 f. n.
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- SLIDELL, JOHN [La.]**: b. N. Y. 1793, d. 1871; envoy of C. S. A. to for. nations, 222 f. n.
- SLOAT, JOHN DRAKE** [N. Y.]: b. 1780, d. 1867; midshipman 1800-01; sailing-master *United States* in War of 1812; capt. *Macedonian*; suppressed piracy 1823-25; cap't 1837; comm. Portsmouth, N. H. navy yard 1840-44; as comm. Pac. squad. 1844-46 he occupied Monterey in advance of Brit. admiral; relieved by Stockton 1847; comm. Norfolk, Va. navy yard 1847-51; supt. construc. Stevens battery 1851-55; retired 1861; made commodore 1862, and rear-adm. 1866; in conquest of Cal., 311.
- SLUGHTER, HENRY, COL.**: royal gov. N. Y., 31, 32.
- SMALLEY, GEORGE WASHBURN** [N. Y.]: b. 1833, d. 1916; grad. Yale; lawyer; corres. *N. Y. Tribune* in Civil War and Franco-Prussian War; for. resp.; on Phillips, 276.
- SMITH, GOLDWIN**, Eng. historian and publicist: b. 1823, d. 1910; grad. Oxford; prof. there in mod. hist. 1858-66; prof. hist. Cornell Univ. 1868-71; regent Univ. Toronto; biog. of Garrison, 161.
- SMITH, JOHN**: b. Eng. 1579, d. 1631; soldier in Netherlands and Turkey; captured by Turks; escaped; cap't of Va. 1607-09; explorer of New Eng., wrote acc't of life and explorations; his rule in Va., 4.
- SMITH, WILLIAM LOUGHTON** [S. C.]: b. 1758, d. 1812; opposes anti-slavery petit., 109-112, 115, 118; sketch of, 109.
- SOBRIGUETS**: see sketches of ADAMS, J. Q.; ALLEN; BERRIEN; CHASE; DOUGLAS; LINCOLN; POLK; VAN BUREN; WILSON, H.
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- STAFFORD, WENDELL PHILLIPS [D. C.]: b. Vt. 1861; judge Sup. Ct., D. C., 1904; poet; on Phillips, 274.
- STATE RIGHTS: oppos. by Dane, 57 f. n.; in pub. lands, 66, 67, 80; upheld by South. aristocrats, 73; *in re* slavery, 107, 110, III, 127, 136 et seq., 163, 227, 228, 236, 238, 257, 287, 340; *in re* right of petition, 118, 179; upheld by Whig faction, 152; Const. on, 154; Calhoun on, 188, 221; *in re* Tex., 201; usurped by Cal., 243; Nashville Conv. on, 255; Clay opposes, 265; impaired by giving citizenship to negroes, 320; upheld by Taney, 324; South would relinquish Union for, 353. See also DRED SCOTT DECISION; POPULAR SOVEREIGNTY; PRIGG; TERRITORIES; WILMOT PROVISO.
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- STEVENS, JAMES [Ct.]: b. 1768, d. 1835; advocates Mo. Comp., 153, 154; sketch of, 153 f. n.
- STEVENS, THADDEUS [Pa.]: b. Vt. 1793, d. 1868; grad. Dartmouth; moved to Pa., 1814; lawyer; State legis.; mem. State const. convy. 1838; canal comm'r, 1838; Whig; M. C. 1849-53; Repub.; M. C. 1859-68; chm. mgrs. impeachment Pres. Johnson; remark on the Const. Union Conv. of 1860, 373.
- STEWART, ROBERT M. [Mo.]: gov., offers reward for arrest of John Brown, 354.
- STOCKTON, ROBERT FIELD [N. J.]: b. 1795, d. 1866; educ. at Princeton; entered U. S. Navy 1811; commodore; resigned comm'n 1850; Dem.; Sen. 1851-53; pres. Del. and Raritan Canal Co. 1853-66; comp. N. J. del. to Peace Cong. 1861; in conquest of Cal., 312.
- STORY, JOSEPH [Mass.]: b. 1779, d. 1845; on the first Va. legis., 5; on inheritance laws of N. J., 26; opposes Taney's decisions, 325; opinion of, in Prigg *vs.* Pennsylvania, 325.
- STOWE, MRS. HARRIET BEECHER: b. Ct. 1812, d. 1896; teacher; author of school geog.; removed to Cinti, O.; married Rev. Dr. Calvin Ellis Stowe 1836; Abol.; assisted fug. slaves; removed to Bowdoin Coll., Brunswick, Me. 1850; wrote *Uncle Tom's Cabin*, pub. in *National Era*, Wash. D. C. 1851-52; pub. in book form 1852; 500,000 copies sold in 5 yrs; trans. into every civ. lang.; pub. in 1853 *A Key to U. T. C.* corroborating anti-slavery statements in novel; author of many other works; effect of *Uncle Tom's Cabin*, 271.
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- STUART, ALEXANDER HUGH HOLMES [Va.]: b. 1807, d. 1891; grad. Univ. of Va.; lawyer; State legis.; Whig; M. C. 1841-43; Sec. Inter. 1850-53; on Fillmore, 251, 252.
- STUART, JOHN T. [Ill.]: law-partner of Lincoln, 211.
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- SUMNER, CHARLES [Mass.]: b. 1811, d. 1874; elect. Sen., 267; sketch of, 267-271; on sectionalism of slavery, 271; vocabulary of, 277; opposes repeal of Mo. Comp., 280, 292-294; his philippic against slavery, 303-307; assault on, 307-310, 363; on "Barbarism of Slavery," 307.
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TANEY, ROGER BROOKE [Md.]: b. 1777, d. 1864; opinion in Dred Scott case, 319-321; sketch of, 323-325, 355.

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TAYLOR, BAYARD [Pa.]: b. 1825, d. 1878; apprenticed to printer; traveled abroad as press corresp.; editor; poet; author; sec. U. S. Russian legation, 1862-63; min. Berlin 1878; on Seward, 281.

TAYLOR, HANNIS [D. C.]: b. N. C. 1851; on Confed. of New Eng., 24 f. n.

TAYLOR, JOHN W. [N. Y.]: b. 1784, d. 1854; opposes slavery in Mo., 129, 132-136; sketch of, 130; offers Mo. Comp. *in re* Ark. Terr., 142.

TAYLOR, ZACHARY [La.]: b. Va. 1784, d. 1850; in Mex. War, 201, 202, 204; elect. Pres., 203, 219, 228; opposes invas. of Mex., 214, 228; urges adm. of Cal., 233; sketch of, 233; advoc. pop. sov., 242, 243; death of, 249.

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TEACHER, GEORGE [Mass.]: b. Me. 1754, d. 1824; advoc. anti-slavery petit., 115, 117, 118, 121; sketch of, 115; opposes slavery in Miss. Terr., 128.

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THOMAS, JESSE BURGESS [Ill.]: b. Va. 1777, d. 1853; pro-slavery Sen., 129 f. L.; proposes Mo. Comp., 146; sketch of, 146 f. n.

THOMPSON, WADDY [S. C.]: b. 1798, d. 1868; opposes Abol. petit., 167, 171; sketch of, 170; on censure of J. Q. Adams, 174, 175, 177, 187.

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TOOMBS, ROBERT [Ga.]: b. 1810, d. 1885; grad. Union; lawyer; captain

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in Creek War 1836; Whig; State legis.; State Rights Dem.; M. C. 1847-53; Sen. 1853-61; expelled for secession; M. C., Sec. State, and brig.-gen. C. S. A.; del. State const. conv. 1877; opposes punishment of Brooks for assault on Sumner, 308.
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- TRROUP, GEORGE MCINTOSH [Ga.]: b. 1780, d. 1856; on slave trade, 122, 123; sketch of, 122.
- TRUMBULL, BENJAMIN [Ct.]: b. 1735, d. 1820; grad. Yale; preacher; chap. in Revol.; historian; grandfather L. Trumbull, 308 f. n.
- TRUMBULL, LYMAN [Ill.]: b. Ct. 1813, d. 1896; on adm. of Ore., 344; on John Brown's raid, 368; sketch of, 368 f. n.
- TYLER, JOHN [Va.]: b. 1790, d. 1862; opposes Mo. Comp., 151-153; sketch of, 151, 152; supported by Cushing, 172 f. n.; Pres., *in re* Tex., 195; oppos. by Whigs, 314.
- TYLER, SAMUEL [D. C.]: b. Md. 1809, d. 1878; educ. Middlebury Coll.; prof. law Columbian Coll., D. C. (now George Washington Univ.) 1867-78; author; his life of Taney, 325.

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- UNDERGROUND RAILROAD, THE: Chase dubbed "Counsel for," 259.
- UNDERHILL, JOHN: b. Eng. d. L. I., N. Y. 1672; came to Mass. Bay 1630; in colon. legis.; commander in Pequot War, 1637; disc. of Mrs. Hutchinson; banished from Boston for relig. opinions; gov. Exeter and Dover, Eng. 1641; came to Ct.; in colon. legis.; comm. in hostilities with Dutch and Ind., 1643-46; pub. acc't of Pequot War; Indian fighter, 28.
- UNDERWOOD, FRANCIS HENRY [Mass.]: b. 1825, d. 1894; on Sumner, 270.
- UNION: Confed. of New Eng., 23-24; cong. at N. Y. for colon. defense, 31; upheld by A. Johnson, 71; promoted by railroads, 88; effect on, of slavery, 139-141, 148; eulogy of, by J. Stevens, 154; effect on, of annex. of Tex., 203; Corwin on, 207, 208; South a conservative force in, 220; disunion preferable to national dishonor, 220; disunion, warning of Washington against, 237; Foote on, 238; endangered by Abol., 240, 242 *et seq.*, 263, 358, 359; Webster on, 243, 247; movement for, in South, 255, 256, 267; Rhett on, 264; loyalty to, of the West, 266;

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USHER, JOHN: b. Mass. 1648, d. 1726; colon. legis.; treas. Mass.; agt. for Mass. in 1677 for purchase of Me.; lieut.-gov. N. H., 13.

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- WASHINGTON, BUSHROD [Va.]: b. 1762, d. 1829; nephew Pres. Washington; grad. William and Mary; private in Revol.; State legis.; mem. conv. to ratify U. S. Const.; Assoc.-Just. U. S. Sup. Ct. 1798-1829; first pres. Nat. Coloniz. Soc., 157.
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- WAYNE, JAMES MOORE [Ga.]: b. 1790, d. 1867; grad. Princeton; State legis.; judge super. ct. Ga. 1824-29; Dem.; M. C. 1829-35; pres. of two State const. conv.; free-trader; oppos. intern. imp.; opposed recharter U. S. Bank; was active in removing Indians to West; appointed Assoc.-Just. Sup. Ct. 1835; concurs in Dred Scott decis., 321.
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- WILBERFORCE, WILLIAM, Eng. statesman and philan: b. 1759, d. 1833; grad. Cambridge; inherits fortune; M. P.; friend of the younger Pitt; attempted to reform crim. law; founded anti-vice soc.; entered into movement to suppress slave trade and gradually emanc. slaves in Brit. colonies; anti-slave trade bill enacted 1807; abol. of slavery bill passed three days before his death; author of book on *Real Christianity*; as abolitionist, 159.
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